

**SB270 INTRODUCED**



1 SB270  
2 3QAGEZV-1  
3 By Senator Orr  
4 RFD: County and Municipal Government  
5 First Read: 02-Apr-24



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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, and 36-12-45 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:



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29           "§36-12-40

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



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57 public safety or welfare that could reasonably be expected  
58 from public disclosure on the records.

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

63 "§36-12-41

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

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

74 §36-12-43

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

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

84 (1) BUSINESS DAY. A day that the public officer's



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85 office is open to the public and conducting normal operations.

86 (2) PUBLIC OFFICER. A public officer or his or her  
87 designee responsible for responding to public records  
88 requests.

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

97 (4) SUBSTANTIVE RESPONSE. A response to a  
98 public-records request that sets forth the public officer's  
99 ultimate position on the substance of the request. The term  
100 includes, but is not limited to, the following, in whole or in  
101 part:

102 a. A statement that the public records are provided as  
103 attached or enclosed.

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

109 c. A statement that the public officer is prepared to  
110 provide the requested public records to the requester upon  
111 payment of a reasonable fee.

112 d. A statement the requested records do not exist.



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113 e. A statement that denies the request with reasons  
114 stated therefor.

115 f. A statement that denies the request on the grounds  
116 the public officer is not the custodian of the requested  
117 public record and, if known to the public officer, identifies  
118 the custodian.

119 g. A statement that denies the request for failure to  
120 substantially complete a standard request form.

121 h. A statement that denies the request for failure to  
122 substantially comply with the written procedures established  
123 by the public officer for such request and provides  
124 instructions for compliance or a reasonable alternative for  
125 substantial compliance if the requester has provided a  
126 reasonable basis for which compliance with the established  
127 procedure is unduly burdensome, impractical, or impossible to  
128 the requester.

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

135 (c) This article is not intended to, and does not,  
136 change or in any way affect any protections for sensitive or  
137 other nonpublic information provided under applicable law.

138 §36-12-44

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



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141 (1) The public officer may, but need not, require the  
142 requester to submit his or her request using a standard  
143 request form.

144 (2) The public officer shall acknowledge the request  
145 within 10 business days of receiving it.

146 (3) The public officer shall provide a substantive  
147 response fulfilling or denying the request within 15 business  
148 days of acknowledging receipt. Although the public officer may  
149 extend this period in 15-business-day increments upon written  
150 notice to the requester, the public officer should process a  
151 standard request as expeditiously as possible considering the  
152 requester's time constraints, the public officer's workload,  
153 and the nature of the request.

154 (4) The requester shall have standing to file suit to  
155 enforce this article if either of the following occurs:

156 a. A substantive response is not provided to the  
157 standard request within the earlier of 30 business days or 60  
158 calendar days following acknowledgment of receipt by the  
159 public officer.

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

163 c. A substantive response denies a request in whole or  
164 in part.

165 (b) A public officer shall respond to a time-intensive  
166 request subject to each of the following provisions:

167 (1) The public officer shall require the requester to  
168 submit his or her request using a standard request form.



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169           (2) The public officer shall require the requester to  
170 pay a reasonable fee before the requester may receive the  
171 public records.

172           (3) The public officer shall acknowledge the request  
173 within ten business days of receiving it.

174           (4) The public officer shall notify the requester  
175 within 15 business days after acknowledging receipt that the  
176 request qualifies as a time-intensive request. At that time,  
177 the public officer shall notify the requester of any likely  
178 fees and allow the requester to withdraw the time-intensive  
179 request and submit a new request that is not a time-intensive  
180 request. If the requester elects to proceed with a  
181 time-intensive request, the public officer shall provide a  
182 substantive response fulfilling or denying the request within  
183 45 business days after the requester elected to proceed with  
184 his or her time-intensive request. The public officer may  
185 extend this period in 45-business-day increments by notifying  
186 the requester in writing.

187           (5) At or around the time of designating the request as  
188 time-intensive, the public officer shall make a record in a  
189 log maintained for keeping track of currently pending  
190 time-intensive requests. For each such currently pending  
191 request, the log shall identify the name of the requester, the  
192 general subject matter of the request, and the date of  
193 acknowledgment pursuant to subsection (b) (3).

194           (6) The requester shall have standing to file suit to  
195 enforce this article if either of the following occurs:

196           a. A substantive response is not provided within the





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197 earlier of 180 business days or 270 calendar days following  
198 the requester's election to proceed with a time-intensive  
199 request.

200 b. The records are not produced within the earlier of  
201 180 business days or 270 calendar days following the payment  
202 of the estimated fees to the public officer.

203 c. A substantive response denies a request in whole or  
204 in part.

205 (c) A public officer shall not be obligated to respond  
206 to a public-records request that is vague, ambiguous, overly  
207 broad, or unreasonable in scope; provided, if the public  
208 officer chooses to respond to such a request by seeking  
209 clarification from the requester concerning the scope of the  
210 request, the timelines established in this section shall  
211 restart once the public officer receives the requested  
212 clarification from the requester.

213 (d) A public officer shall not be required to create a  
214 new public record if the requested record does not already  
215 exist.

216 (e) Nothing in this section shall be construed to  
217 prohibit a public officer from processing a public-records  
218 request in a manner that is less expensive or more prompt from  
219 the perspective of the requester.

220 §36-12-45

221 (a) (1) A citizen may request access to a public record  
222 by following the written procedures for accepting such  
223 requests established by the public officer having custody of  
224 the public record. The written procedures may establish any of



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225 the following:

226 a. A standard request form for use in submitting a  
227 public-records request.

228 b. A designee, such as a public-records coordinator, to  
229 whom a public-records request shall be addressed.

230 c. The permissible method or methods of transmitting a  
231 public-records request.

232 d. Any other policies pertaining to the process for  
233 submitting a public-records request.

234 (2) The public officer shall make his or her written  
235 procedures concerning public records reasonably available to  
236 the public.

237 (3) A public officer shall not be obligated to respond  
238 to a public-records request that is not made pursuant to the  
239 public officer's written procedures.

240 (4) Written procedures need not be adopted as  
241 administrative rules pursuant to the Alabama Administrative  
242 Procedure Act.

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

245 (1) A citizen may submit a public-records request by  
246 delivering the request by hand or by mailing the request to  
247 the main office or principal place of business of the public  
248 officer having custody of the public record.

249 (2) Receipt of a hand-delivered public-records request  
250 occurs when the request is received at the public officer's  
251 main office or principal place of business. Receipt of a  
252 mailed public-records request occurs on the date of actual



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253 receipt by the public officer. A certified mail receipt or  
254 similar signed postage receipt shall be prima facie evidence  
255 of receipt by the public officer.

256 (3) The standard request form shall read substantially  
257 as follows:

258 "Requester's contact information:

259 Name: \_\_\_\_\_

260 Phone number: \_\_\_\_\_

261 Email address: \_\_\_\_\_

262 Street address: \_\_\_\_\_

263 \_\_\_\_\_

264 \_\_\_\_\_

265 Agency you are requesting public records from:

266 \_\_\_\_\_

267 Date of request: \_\_\_\_\_

268 Records requested: (Be as specific as possible. A  
269 public officer shall not be obligated to respond to a  
270 request that is vague, ambiguous, overly broad, or  
271 unreasonable in scope. Additionally, extensive requests  
272 for public records may increase the fees to cover the  
273 administrative cost of searching and copying the  
274 requested records.)

275 \_\_\_\_\_

276 \_\_\_\_\_

277 \_\_\_\_\_

278 \_\_\_\_\_

279 Payment of fees may be required before your request is  
280 fulfilled."



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281                   Section 3. This act shall become effective on October  
282   1, 2024.