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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 open records; 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 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:



29           "§36-12-41

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

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

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

42           §36-12-43

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

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

55           (2) For purposes of this article, receipt of a mailed  
56 request occurs on the date of actual receipt by the public



57 officer. A certified mail receipt or similar signed postage  
58 receipt shall be prima facie evidence of receipt by the public  
59 officer.

60 (3) For purposes of this article, receipt of an  
61 electronically received request occurs when the public officer  
62 acknowledges receipt of the request in writing to the  
63 requester.

64 (c) The public officer shall promptly, but in all cases  
65 not more than 10 business days after the date of receipt,  
66 acknowledge receipt of the request.

67 §36-12-44

68 Written requests for public records may be made on a  
69 form that is substantially similar to the following:

70 "Requester's contact information:

71 Name: \_\_\_\_\_

72 Phone number: \_\_\_\_\_

73 Email address: \_\_\_\_\_

74 Street address: \_\_\_\_\_

75 \_\_\_\_\_

76 \_\_\_\_\_

77 Agency you are requesting public records from:

78 \_\_\_\_\_

79 Date of request: \_\_\_\_\_

80 Records requested: (Be as specific as possible. Requests that  
81 are overly broad may take longer to respond to and may  
82 increase the fees to cover the administrative cost of  
83 searching and copying the requested records.)

84 \_\_\_\_\_



85 -----

86 -----

87 -----

88 Payment of fees may be required before your request is  
89 fulfilled."

90 §36-12-45

91 (a) Upon receipt of a request for a public record as  
92 provided in Section 36-12-43, a public officer shall promptly,  
93 but in all cases not more than 20 business days after the date  
94 of receipt of the request, make one or more of the following  
95 responses to the requester in writing:

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

100 (2) Respond with an estimate of the costs for copying  
101 and production of the requested public records.

102 (3) Deny the request in full.

103 (4) Deny the request in part and grant the request in  
104 part by providing access to or an estimate of cost for copying  
105 and production of the requested public records that are not  
106 withheld or that have been redacted, excised, or deleted in  
107 order to remove the portion of the record in which an  
108 exemption, prohibition, or exception applies.

109 (5) Deny the request, in whole or in part, on the  
110 grounds that the public officer is not the custodian of the  
111 requested public record and, if known to the public officer,  
112 identify the custodian to the requester.



113           (6) Deny the request, in whole or in part, on the  
114 grounds that, to the best of the public officer's knowledge,  
115 the requested record does not exist within the governmental  
116 agency.

117           (b) If the public officer reasonably believes the  
118 amount of time and resources needed to comply with the request  
119 within the time required by this section will prevent the  
120 public officer or his or her staff from meeting their  
121 operational responsibilities, the public officer shall provide  
122 the requester the opportunity to limit the scope of the  
123 request so that it can be processed in an agreed upon time  
124 between the public officer and the requester.

125           (c) If the public officer and the requester agree to  
126 the copying and production of the requested public record  
127 based on the estimate of cost provided in subdivision (a)(2)  
128 or subdivision (a)(4), the public officer shall provide to the  
129 requester an estimate of the additional time needed to produce  
130 the copy under the agreed upon conditions. The additional time  
131 shall not exceed 45 business days after the date of the  
132 agreement with the requester, plus an additional 15 business  
133 days permitted in order to make a determination whether the  
134 requested record is sensitive or is otherwise nonpublic  
135 information under applicable law.

136           (d) Any denial of the request, in whole or in part,  
137 shall identify the subject matter of the withheld public  
138 records and cite the specific reason or reasons for the  
139 withholding that are known by the public officer at that time.  
140 A public officer may revise the initial reasons for a denial



141 by sending the requester the revised reasons for the denial  
142 not more than 30 business days after the initial denial.

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

146 (f) A public officer shall not be required to create a  
147 new public record if the record requested does not already  
148 exist.

149 (g) Failure by a public officer to respond in  
150 accordance with this section to a request shall be deemed a  
151 denial of the request and shall constitute a violation of this  
152 section. The disclosure of nonpublic or sensitive information  
153 constitutes a violation of this section if the public officer  
154 has made no effort to narrow the scope of the request or  
155 otherwise provide for proper disclosure under subsection (b).

156 (h) This article is not intended to and does not affect  
157 any protections for sensitive or other nonpublic information  
158 provided under applicable law.

159 Section 3. This act shall become effective on October  
160 1, 2023, following its passage and approval by the Governor,  
161 or its otherwise becoming law.