



# ACT #2024 - 278

- 1 SB270
- 2 1C5VZ33-2
- 3 By Senator Orr
- 4 RFD: County and Municipal Government
- 5 First Read: 02-Apr-24



SB270 Enrolled



1 Enrolled, An Act,

2  
3  
4 Relating to public records; to amend Sections 36-12-40  
5 and 36-12-41, Code of Alabama 1975, and to add Sections  
6 36-12-43, 36-12-44, 36-12-45, and 36-12-46 to the Code of  
7 Alabama 1975, to establish procedures for requesting and  
8 obtaining public records; and to make nonsubstantive,  
9 technical revisions to update the existing code language to  
10 current style.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Sections 36-12-40 and 36-12-41 of the Code  
13 of Alabama 1975, are amended to read as follows:

14 "§36-12-40

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

18 Provided however, registration and circulation records and  
19 information concerning the use of the public, public school,  
20 or college and university libraries of this state shall be  
21 exempted from this section. Provided further, any parent of a  
22 minor child shall have the right to inspect the registration  
23 and circulation records of any school or public library that  
24 pertain to his or her child. Notwithstanding the foregoing,  
25 records concerning security plans, procedures, assessments,  
26 measures, or systems, and any other records relating to, or  
27 having an impact upon, the security or safety of persons,  
28 structures, facilities, or other infrastructures, including



29 without limitation information concerning critical  
30 infrastructure, ~~(as defined at 42 U.S.C. § 5195c(e), ~~as~~~~  
31 ~~amended)~~ and critical energy infrastructure information, ~~(as~~  
32 ~~defined at 18 C.F.R. § 388.113(c)(1), ~~as amended)~~ the public~~  
33 disclosure of which could reasonably be expected to be  
34 detrimental to the public safety or welfare, and records the  
35 disclosure of which would otherwise be detrimental to the best  
36 interests of the public shall be exempted from this section.  
37 Any public officer who receives a request for records that may  
38 appear to relate to critical infrastructure or critical energy  
39 infrastructure information, shall notify the owner of such  
40 infrastructure in writing of the request and provide the owner  
41 an opportunity to comment on the request and on the threats to  
42 public safety or welfare that could reasonably be expected  
43 from public disclosure ~~an~~ of the records.

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

48 "§36-12-41

49 Every public officer having ~~the~~ custody of a public  
50 ~~writing which a citizen~~ record that a resident has a right to  
51 inspect ~~is bound to give him~~ shall provide him or her, on  
52 ~~demand~~ proper request as provided in this article, with a  
53 certified copy of ~~it~~ the public record, on payment of ~~the~~  
54 legal fees therefor a reasonable fee, as further provided in  
55 this article, and such copy is admissible as evidence in like  
56 cases and with like effect as the original writing."



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57           Section 2. Sections 36-12-43, 36-12-44, 36-12-45, and  
58   36-12-46 are added to the Code of Alabama 1975, to read as  
59   follows:

60           §36-12-43

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

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

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

73           (2) PUBLIC OFFICER. A public officer or his or her  
74   designee responsible for responding to public records  
75   requests.

76           (3) RESIDENT. An individual who is permanently  
77   domiciled in Alabama with an expectation to remain in Alabama  
78   as demonstrated by reasonable proof of residency such as, but  
79   not limited to, an Alabama driver license or voter  
80   registration.

81           (4) STANDARD REQUEST. A public records request that  
82   seeks one or more specifically and discretely identified  
83   public records that the public officer determines would take  
84   less than eight hours of staff time to process considering the



35 time needed to identify and retrieve any responsive records  
36 and to redact or take other measures to withhold protected  
37 information. A standard request should require no or minimal  
38 clarification by the requester.

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

43 a. A statement that the public records are provided as  
44 attached or enclosed.

45 b. A statement that access to the requested public  
46 records will be provided at a set time, place, and location  
47 during regular business hours or at a time, place, and  
48 location mutually agreeable to the public officer and the  
49 requester.

100 c. A statement that the public officer is prepared to  
101 provide the requested public records to the requester upon  
102 payment of a reasonable fee.

103 d. A statement that denies the request with reasons  
104 stated therefor.

105 e. A statement that denies the request on the grounds  
106 that the requested public record does not exist within the  
107 government agency. If known to the public officer, the public  
108 officer may identify the proper custodian or location for the  
109 requested public record.

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

112 g. A statement that denies the request for failure to



113 substantially comply with the written procedures established  
114 by the public officer for such request.

115 h. A statement that denies the request because the  
116 records sought are not public.

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

123 (c) This article is not intended to, and does not,  
124 change or in any way affect any protections for private,  
125 confidential, privileged, or other nonpublic information  
126 provided under applicable law.

127 §36-12-44

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

130 (1) The public officer may require the requester to  
131 submit his or her request using a standard request form or by  
132 following the written procedures for accepting requests for  
133 public records established by the public officer.

134 (2) The public officer may require the requester to pay  
135 a reasonable fee set by the public officer before the  
136 requester may receive any public records. If the public  
137 officer elects to charge a fee, the public officer shall  
138 notify the requester of the estimated fee and withhold any  
139 public records until receipt of payment. The requester may opt  
140 not to pay the fee and thus not receive any substantive

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141 response. Additionally, the public officer shall have the  
142 discretion to require the requester to pay all or a portion of  
143 the estimated fee prior to searching for any responsive public  
144 records.

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

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

155 (5) There shall be a rebuttable presumption that a  
156 proper standard request has been denied by the public officer  
157 if:

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

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

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

167 a. The request is not proper or the public officer is  
168 not obligated or required to respond as provided in this

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169 section;

170 b. The public officer has responded in part;

171 c. The public officer and requester have reached an  
172 agreement regarding the time or substance, or both, of the  
173 response;

174 d. Negotiations are ongoing between the public officer  
175 and the requester; or

176 e. The public officer has reasonably communicated the  
177 status of the request to the requester.

178 (b) A public officer shall respond to a proper,  
179 time-intensive request subject to each of the following  
180 provisions:

181 (1) The public officer shall require the requester to  
182 submit his or her request using a standard request form or by  
183 following the written procedures for accepting requests for  
184 public records established by the public officer.

185 (2) The public officer shall require the requester to  
186 pay a reasonable fee set by the public officer before  
187 providing a substantive response to the requester. The public  
188 officer shall notify the requester in advance of any likely  
189 fees and shall withhold any substantive response until receipt  
190 of payment. Additionally, the public officer shall have the  
191 discretion to require the requester to pay all or a portion of  
192 the estimated fee prior to searching for any responsive public  
193 records.

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

196 (4) The public officer shall notify the requester



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

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

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

222 a. A substantive response is not provided within the  
223 earlier of 180 business days or 270 calendar days following  
224 the requester's election to proceed with a time-intensive



225 request.

226 b. The records are not produced within the earlier of  
227 180 business days or 270 calendar days following the payment  
228 of the estimated fees to the public officer.

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

231 a. The request is not proper or the public officer is  
232 not obligated or required to respond as provided in this  
233 section;

234 b. The public officer has responded in part;

235 c. The public officer and requester have reached an  
236 agreement regarding the time or substance, or both, of the  
237 response;

238 d. Negotiations are ongoing between the public officer  
239 and the requester; or

240 e. The public officer has reasonably communicated the  
241 status of the request to the requester.

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

247 (d) A public officer shall not be required to create a  
248 new public record if the requested record does not already  
249 exist.

250 (e) A public officer shall not be required to respond  
251 to requests that seek information or other materials that are  
252 not public records.



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

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

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

274 §36-12-45

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

280 a. A standard request form for use in submitting a



281 public records request.

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

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

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

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

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

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

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

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

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

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309 of receipt by the public officer.  
310 (3) The standard request form shall read substantially as  
311 follows, provided a public officer may require additional  
312 information or modify the order or format in which the  
313 information is requested:  
314 "Requester's contact information:  
315 Name: \_\_\_\_\_  
316 Phone number: \_\_\_\_\_  
317 Email address: \_\_\_\_\_  
318 Street address: \_\_\_\_\_  
319 City: \_\_\_\_\_  
320 State: \_\_\_\_\_  
321 Zip: \_\_\_\_\_  
322 Agency you are requesting public records from:  
323 \_\_\_\_\_  
324 Date of request: \_\_\_\_\_  
325 Records requested: (Be as specific as possible. A  
326 public officer is not obligated to respond to a request  
327 that is vague, ambiguous, overly broad, or unreasonable  
328 in scope, nor is a public officer obligated to respond  
329 to a request that seeks records that do not exist or  
330 materials that are not public records. Additionally,  
331 extensive requests for public records may increase the  
332 fees to cover the administrative cost of searching and  
333 copying the requested records.)  
334 \_\_\_\_\_  
335 \_\_\_\_\_  
336 \_\_\_\_\_



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

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

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§36-12-46

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

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

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB270

Senate 18-Apr-24

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,  
Secretary.

House of Representatives  
Amended and passed: 02-May-24

Senate concurred in House amendment 07-May-24

By: Senator Orr

APPROVED

TIME

GOVERNOR

Alabama Secretary Of State

Act Num....: 2024-278  
Bill Num....: S-270

Recv'd 05/08/24 03:23pm KCW

ENGROSSED

Senate Bill No. 270

SENATE ACTION

SPONSOR  
1 OYC  
CO-SPONSORS

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I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB 270.

YEAS 29 NAYS 0 ABSTAIN 0

PATRICK HARRIS,  
Secretary

I hereby certify that the notice & proof is attached to the Bill, SB \_\_\_\_\_ as required in the General Acts of Alabama, 1975 Act No. 919.

PATRICK HARRIS,  
Secretary

CONFERENCE COMMITTEE

Senate Conferees \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

HOUSE ACTION

DATE: 4 03 2024

RD 1 RFD CLWGS

REPORT OF STANDING COMMITTEE

This bill having been referred by the House to its standing committee on CLWGS was acted upon by such committee in session, and returned therefrom to the House with the recommendation that it be Passed, W/amend(s) w/sub 1. This 03 day of April, 2024.

CLWGS Chairperson

DATE: 4 03 2024

RF CLWGS RD 2 CAL

DATE: \_\_\_\_\_ 20\_\_

RE-REFERRED  RE-COMMITTED

Committee \_\_\_\_\_

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB 270.

YEAS 03 NAYS 0

JOHN TREADWELL,  
Clerk

FURTHER HOUSE ACTION (OVER)