

1 SB165
2 209425-1
3 By Senator Allen
4 RFD: Judiciary
5 First Read: 02-FEB-21

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8 SYNOPSIS: This bill would repeal existing law
9 providing access to public records and replace it
10 with a new Alabama Public Records Act with
11 provisions establishing the rights of citizens to
12 access public records, enumerating exceptions to
13 disclosure, establishing procedures for making and
14 responding to requests for access, setting the
15 charges associated with responding to requests,
16 establishing a Public Access Counselor within the
17 Alabama Department of Examiners of Public Accounts,
18 creating administrative and judicial remedies,
19 establishing criminal penalties for intentional
20 false statements made during a request for records
21 or an appeal under this act, and establishing civil
22 penalties for noncompliance.

23 Amendment 621 of the Constitution of Alabama
24 of 1901, as amended by Amendment 890, now appearing
25 as Section 111.05 of the Official Recompilation of
26 the Constitution of Alabama of 1901, as amended,
27 prohibits a general law whose purpose or effect

1 would be to require a new or increased expenditure
2 of local funds from becoming effective with regard
3 to a local governmental entity without enactment by
4 a 2/3 vote unless: it comes within one of a number
5 of specified exceptions; it is approved by the
6 affected entity; or the Legislature appropriates
7 funds, or provides a local source of revenue, to
8 the entity for the purpose.

9 The purpose or effect of this bill would be
10 to require a new or increased expenditure of local
11 funds within the meaning of the amendment. However,
12 the bill does not require approval of a local
13 governmental entity or enactment by a 2/3 vote to
14 become effective because it comes within one of the
15 specified exceptions contained in the amendment.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT
20

21 Relating to public records; to repeal Sections
22 36-12-40 and 36-12-41, Code of Alabama 1975; to establish the
23 Alabama Public Records Act; to require governmental bodies of
24 this state to adopt rules allowing each citizen to inspect and
25 take a copy of any public record upon a request made in
26 accordance with this act; to require governmental bodies to
27 designate a custodian of records; to provide for exemptions to

1 disclosure; to establish special access to documents
2 determined to be of historical value by the State Records
3 Commission; to establish procedures to access public records;
4 to establish what charges could be assessed for access to
5 public records; to create the position of Public Access
6 Counselor within the Alabama Department of Examiners of Public
7 Accounts; to grant the Public Access Counselor authority to
8 decide requests from custodians for additional time to comply
9 with records requests; to establish administrative procedures
10 to appeal denials of access to records; to create procedures
11 for judicial enforcement of public record access rights; to
12 establish criminal penalties for intentional false statements
13 made by a requestor during request for records or appeal
14 process; to create civil penalties for failing to comply with
15 the act; to provide an absolute privilege and immunity for the
16 publication of defamatory statements or invasions of privacy
17 contained in records produced pursuant to a request for
18 access; and in connection therewith to have as its purpose or
19 effect the requirement of a new or increased expenditure of
20 local funds within the meaning of Amendment 621 of the
21 Constitution of Alabama of 1901, as amended by Amendment 890,
22 now appearing as Section 111.05 of the Official Recompilation
23 of the Constitution of Alabama of 1901, as amended.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Name.

26 This act shall be known and may be cited as the
27 Alabama Public Records Act.

1 Section 2. Legislative Intent.

2 The Legislature finds and declares the following:

3 (1) All political power is inherent in the people.

4 Thus, it is the public policy of the State of Alabama that
5 every person is vested with the inherent right to know and be
6 fully informed about the workings of government.

7 (2) The purpose of this act is to ensure and
8 facilitate the public's right of access to and review of
9 public records so they may efficiently and intelligently
10 exercise their inherent political power.

11 (3) All governmental records not expressly exempt
12 shall be open for public inspection. The duty of all
13 government agencies and political subdivisions to provide
14 access to public records shall be broadly construed.

15 (4) The Alabama Public Records Act does not create,
16 directly or indirectly, any rights of privacy or any remedies
17 for violation of any rights of privacy; nor shall the act,
18 except as specifically set forth in the act, establish any
19 procedures for protecting any person from release of
20 information contained in public records.

21 (5) The purpose of this act is also to protect and
22 preserve governmental records belonging to the State of
23 Alabama. Governmental records are the property of the State of
24 Alabama.

25 (6) The privacy interests of individuals are
26 adequately protected in the specific exceptions to this act or
27 in the laws that authorize, create, or require the records.

1 (7) Except as may be required by other laws directly
2 pertaining to a particular governmental record or governmental
3 body, a governmental body shall follow the procedures required
4 by the Alabama Public Records Act.

5 Section 3. Definitions.

6 As used in this act, the following words shall have
7 the following meanings:

8 (1) CONFIDENTIAL BUSINESS INFORMATION. Records
9 containing any of the following:

10 a. Trade secrets obtained from a person which are of
11 a privileged or confidential nature and required by law to be
12 submitted to a government agency.

13 b. Data or information of a proprietary nature,
14 produced or collected by a governmental body or private
15 individual or private business, which would place the
16 governmental body or private individual or private business at
17 a competitive disadvantage, and which has not been publicly
18 released, published, copyrighted, or patented.

19 c. Data or information of a proprietary nature,
20 produced or collected by or for faculty or staff of state
21 institutions of higher learning, or other governmental bodies,
22 in the conduct of or as a result of, study or research on
23 commercial, scientific, technical, or scholarly issues,
24 whether sponsored by the institution alone or in conjunction
25 with a governmental body or private individual or private
26 business, where the data, records, or information has not been
27 publicly released, published, copyrighted, or patented.

1 (2) COUNSELOR. The Public Access Counselor selected
2 pursuant to Section 10 of this act.

3 (3) CUSTODIAN. A person designated by a governmental
4 agency to maintain actual possession, custody, or control of
5 governmental records and who has been given the express,
6 implied, or apparent authority from the governmental body or a
7 governmental official to grant or deny a request for access to
8 a governmental record. If a governmental body has not
9 designated a custodian pursuant to this act, the custodian
10 shall be the governmental official or governmental employee
11 having ultimate executive responsibility for any governmental
12 body having possession, custody or control of governmental
13 records. The term does not include a person employed by or
14 working on behalf of an agency that holds or maintains records
15 as a service to another agency shall be construed to be the
16 custodian of those records.

17 (4) ELECTRONIC. Relating to technology having
18 electrical, digital, magnetic, wireless, optical,
19 electromagnetic, or similar capabilities.

20 (5) GOVERNMENTAL BODY or GOVERNMENTAL AGENCY.

21 a. The term includes all of the following:

22 1. Boards, bodies, and commissions of the executive
23 and legislative departments of the state or its political
24 subdivisions which expend or appropriate public funds.

25 2. Multimember governing bodies of departments,
26 agencies, institutions, and instrumentalities of the executive
27 and legislative departments of the state or its political

1 subdivisions, including, without limitation, all corporations
2 and other instrumentalities whose governing boards are
3 comprised of a majority of members who are appointed or
4 elected by the state or its political subdivisions.

5 3. Quasi-judicial bodies of the executive and
6 legislative departments of the state and all standing,
7 special, or advisory committees or subcommittees of, or
8 appointed by, the body.

9 b. The term does not include any of the following:

10 1. Legislative party caucuses or coalitions.

11 2. Alabama appellate or trial courts, except as
12 required by the constitution of this state or any organization
13 governed by rules of the Alabama Supreme Court.

14 3. Voluntary membership associations comprised of
15 governmental employees, counties, municipalities, or their
16 instrumentalities which have not been delegated any
17 legislative or executive functions by the Legislature or
18 Governor.

19 4. An agency that has access to Federal Tax
20 Information, as that term is defined in Internal Revenue
21 Service Publication 1075, and that is subject to the
22 confidentiality protections of the Internal Revenue Code and
23 safeguarding requirements of 26 U.S.C. § 6103 and is the
24 custodian of information subject to the confidentiality
25 provisions of Section 40-2A-10.

26 (6) GOVERNMENTAL EMPLOYEE. Any individual employed
27 at the state, county, or municipal levels of government or

1 their instrumentalities, including governmental corporations
2 and authorities, who is paid in whole or in part from state,
3 county, or municipal funds.

4 (7) GOVERNMENTAL OFFICIAL. Any individual elected to
5 public office by the vote of the people at state, county, or
6 municipal levels of government or their instrumentalities,
7 including governmental corporations, and any person appointed
8 to a position at the state, county, or municipal levels of
9 government or their instrumentalities, including governmental
10 corporations, from time of election or appointment until the
11 end of his or her term.

12 (8) GOVERNMENTAL RECORD. Any record received by a
13 governmental official or governmental employee while he or she
14 is on-duty, or made, generated, or created by a governmental
15 official or governmental employee using government space,
16 resources, or equipment.

17 (9) LAW ENFORCEMENT INVESTIGATIVE REPORTS. Field
18 notes, witness statements, crime scene evidence, and records
19 created or received by sworn law enforcement personnel
20 employed by governmental bodies relating to whether a crime
21 has been committed or the identity of the person or persons
22 who committed the crime, which are intended to remain
23 confidential work-product provided to attorneys representing
24 the government.

25 (10) PERSON. Any private individual, for-profit or
26 non-profit business, private business, trust, estate, or
27 similar entity.

1 (11) PERSONAL PRIVACY INFORMATION: Any of the
2 following information concerning a private individual:
3 a. Social Security number.
4 b. Date of birth.
5 c. Weight.
6 d. Mother's birth name.
7 e. Credit or debit card account numbers.
8 f. Personal e-mail addresses that are not provided
9 or hosted by or at the expense of a governmental agency,
10 unless those e-mail addresses are regularly used to conduct
11 the business of a governmental agency or to transmit public
12 records.
13 g. Financial account numbers or data.
14 h. Medical examinations, treatments, or diagnoses.
15 i. Psychological examinations, treatments, or
16 diagnoses.
17 j. Names and dates of birth of children.
18 k. Names and address of current or former spouse.
19 l. Unlisted or unpublished home telephone or mobile
20 numbers or street number of home addresses.
21 m. Credit rating score.
22 n. Any identifying information listed in Section
23 41-13-7, Code of Alabama 1975, as well as any information that
24 is considered confidential information under any other
25 applicable law.

26 (12) PERSONAL RECORD. A record of a wholly personal
27 nature in the possession of a governmental official or

1 governmental employee which was not made or received by any
2 governmental official or governmental employee in the
3 performance of his or her duties.

4 (13) PRIVATE BUSINESS. A proprietorship,
5 corporation, partnership, company, or other entity that
6 conducts any type of legal trade or business in the State of
7 Alabama and which is not a governmental body.

8 (14) PRIVATE INDIVIDUAL. A natural person who is not
9 a governmental official or governmental employee.

10 (15) PUBLIC RECORD. Any of the following:

11 a. Any record made or received pursuant to law or
12 rule or in connection with the transaction of official
13 business by any governmental agency. A public record includes
14 any record that is reasonably necessary to record the business
15 of government and which is not subject to an exemption from
16 disclosure under Alabama law or prevented from disclosure by
17 an applicable federal law.

18 b. Any record received by a private individual or
19 private business from, or maintained on behalf of, a
20 governmental agency, governmental employee, or governmental
21 official in association with the transaction of official
22 business by the private individual or business.

23 (16) RECORD. Information inscribed on a tangible
24 medium and retrievable in perceivable form, including, but not
25 limited to, all documents, papers, electronic mail, letters,
26 maps, books, tapes, images, videos, films, audio recordings,
27 text messages, spreadsheets, databases or other material,

1 regardless of the physical form, characteristics, or means of
2 transmission. The term does not include any of the listed
3 items which is a temporary draft, whether in physical or
4 electronic form.

5 (17) REDACT. To obscure, cover, or remove text or
6 information from a record prior to publication or release.

7 (18) REQUESTOR. A person making a written request
8 for a record pursuant to Section 6.

9 (19) SCHOLASTIC RECORDS. Records maintained by a
10 governmental body that is an educational governmental agency
11 or institution, or by a person acting for an educational
12 governmental agency or institution, which contain information
13 directly related to an identifiable student. The term does not
14 include general information relating to the scholastic
15 performance of students of educational governmental agencies
16 or institutions if the identity of individual students cannot
17 be determined from the record.

18 (20) SENSITIVE PERSONNEL INFORMATION. Any of the
19 following:

20 a. Personal privacy information contained in the
21 employment records of a governmental employee or governmental
22 official.

23 b. Critical observations of candidates for
24 government employment.

25 c. Drug and alcohol testing results.

26 d. Disciplinary records during the course of
27 disciplinary action against a governmental employee and prior

1 to the employee's exhaustion or abandonment of the
2 administrative appeal process.

3 Section 4. Right to Inspect and Copy Public Records.

4 (a) Every person has the right to inspect or take a
5 copy of any public record as provided in Section 6.

6 (b) Each governmental body shall adopt rules to
7 ensure its compliance with this act and shall designate a
8 custodian of records.

9 (c) Every custodian shall allow a requestor to
10 inspect and take a copy of any public record in accordance
11 with Section 6. Upon request, a copy of a public record shall
12 be produced or made available to the requestor in the most
13 economical and efficient method available. When a requestor
14 requests to receive hard copies of public records by mail, the
15 custodian of records shall mail the public records to the
16 requestor using the United States Postal Service upon
17 prepayment of postage.

18 (d) Every custodian shall take all necessary
19 precautions for the preservation and safekeeping of
20 governmental records.

21 (e) Nothing in this act shall be construed to
22 prevent an agency that holds or maintains records on behalf of
23 another agency from disclosing records to the agency that owns
24 the records.

25 Section 5. Exceptions to Disclosure.

1 (a) The following governmental records shall not be
2 considered public records and are exempt from disclosure under
3 this act:

4 (1) Records specifically protected from disclosure
5 by state or federal law, including, but not limited to, the
6 Family Educational Rights and Privacy Act (FERPA) and the
7 Health Insurance Portability and Accountability Act (HIPAA).

8 (2) Records protected by order of a court with
9 jurisdiction over the records.

10 (3)a. Library circulation records of any public
11 school, college, or university library of this state, or any
12 library of this state or its political subdivisions, or any
13 public library.

14 b. Notwithstanding paragraph a., any parent or legal
15 guardian of a minor student or a student receiving special
16 education services in a public school shall have the right to
17 inspect library circulation records that pertain to the
18 student unless prohibited by federal law.

19 (4) Records that contain personal privacy
20 information. Only portions of the records that contain
21 personal privacy information shall be exempt, and the portions
22 should be redacted from the record.

23 (5) Scholastic records.

24 (6)a. Records concerning security plans, procedures,
25 assessments, measures, or systems, and other records relating
26 to, or having an impact upon the security or safety of
27 persons, structures, facilities, or other infrastructures,

1 including, without limitation, information concerning critical
2 infrastructure, as defined by 42 U.S.C. §5195c(e) or any
3 successor federal statute, or critical energy infrastructure
4 information, as defined at 18 C.F.R. 388.113c(1), the public
5 disclosures of which could reasonably be expected to be
6 detrimental to public safety or welfare.

7 b. Any custodian who receives a request for records
8 listed in paragraph a. shall make a reasonable effort to
9 notify the owner or operator of the infrastructure of the
10 request, if known to the custodian, and shall provide the
11 owner or operator an opportunity to comment on the request and
12 to suggest the threats to public safety or welfare that could
13 reasonably be expected from public disclosure of the records.

14 (7)a. Sensitive personnel information within any
15 record.

16 b. In the event paragraph a. applies, only the
17 sensitive personnel information shall be redacted.

18 c. Notwithstanding paragraphs a. and b., critical
19 observations of candidates for public employment submitted on
20 the condition of anonymity shall become public records if the
21 candidate is hired for the position.

22 d. Nothing in this subdivision shall be construed to
23 prevent a governmental employee of a governmental body that is
24 subject to an internal investigation or disciplinary action
25 from obtaining records concerning a governmental employee to
26 the extent required to provide due process under the United
27 States Constitution.

1 (8)a. Confidential business information within any
2 record.

3 b. In the event paragraph a. applies, only the
4 confidential business information shall be redacted.

5 (9) Law enforcement investigative reports of open
6 and active investigations. Nothing in this subdivision shall
7 preclude the disclosure of law enforcement investigative
8 reports, including the testimony of law enforcement
9 investigators, to a state administrative agency authorized by
10 law to investigate or conduct administrative contested case
11 hearings in any matter related to the suspension, revocation,
12 or restriction of a professional license, registration, or
13 certification for the protection of the public health and
14 safety. The following information shall be considered public
15 records even if included in law enforcement investigative
16 reports:

17 a. The time, date, location, and nature of a
18 reported crime.

19 b. The sex, age, and race of an arrested individual.

20 c. The sex, age, and race of a victim. This
21 paragraph shall not apply to any of the following:

22 1. A victim of a sexual offense listed in Article 4
23 of Chapter 6 of Title 13A, Code of Alabama 1975.

24 2. A victim of a stalking offense listed in Article
25 5 of Chapter 6 of Title 13A, Code of Alabama 1975.

1 3. A victim of domestic violence or any related
2 offense listed in Article 7 of Chapter 6 of Title 13A, Code of
3 Alabama 1975.

4 4. A victim of a human trafficking offense listed in
5 Article 8 of Chapter 6 of Title 13A, Code of Alabama 1975.

6 d. The time, date, or location of the incident and
7 of any arrest related to the incident.

8 e. Records gathered during a criminal investigation
9 and placed into the file of a criminal investigation which
10 were public records prior to the law enforcement
11 investigation.

12 f. The Alabama Uniform Arrest Report or supplemental
13 narrative written by a member of a law enforcement agency.

14 (10) Any communication privileged or confidential
15 under Section 29-6-7.1, Code of Alabama 1975, and any
16 communication between a member of the Legislature, or a
17 legislative staff member on behalf of a member, and a
18 constituent regarding legislation, the legislative process, or
19 legislative activity. This subdivision does not include
20 communications between a member of the Legislature, or a
21 legislative staff member on behalf of a member, and a lobbyist
22 as defined in Section 36-25-1, Code of Alabama 1975, unless
23 the communication is otherwise privileged or confidential
24 under existing law.

25 (11) Real estate appraisals, engineering or
26 feasibility estimates, or other similar records related to the
27 purchase, exchange, or lease of real property made for or by a

1 governmental body until such time as the property has been
2 acquired or the proposed transaction has been terminated or
3 abandoned. However, records containing the material terms of
4 any contract to purchase, exchange, or lease real property
5 made for or by a governmental body as defined by Section
6 36-25A-2, Code of Alabama 1975, shall be considered public
7 records open to inspection when the contracts are considered
8 during the open or public portion of a meeting as defined by
9 Section 36-25A-2, Code of Alabama 1975.

10 (12) Any of the following, as they pertain to
11 governmental bodies that are institutions of higher education
12 and their associated foundations:

13 a. Records concerning the identity of donors or
14 potential donors to the governmental body or its associated
15 foundations.

16 b. Records regarding tenure or peer evaluations,
17 appointments, applications for admissions, retention
18 decisions, and promotions; provided, however, that records
19 related to the final decisions about tenure, appointments,
20 retention, and promotions are not exempt under this
21 subdivision.

22 c. Notwithstanding paragraphs a. and b., information
23 reported by a registered 501(c)(3) under the Internal Revenue
24 Code on the Schedule B of Form 990 are not exempt from
25 disclosure under this act.

26 (13) Records developed, collected, or received by or
27 on behalf of faculty, staff, employees, or students of a

1 governmental body that is an institution of higher education
2 or any public or private entity supporting or participating in
3 the activities of the state institution of higher education in
4 the conduct of, or as a result of, study or research on
5 medical, legal, scientific, technical, scholarly, or artistic
6 issues, whether sponsored by the institution alone or in
7 conjunction with a governmental body or private entity, until
8 the information is published, patented, or otherwise publicly
9 disseminated.

10 (14) Library or museum materials contributed by a
11 private individual, private business, or organization to the
12 extent of any limitations placed thereon as conditions of the
13 contributions, as well as records containing the identity of
14 donors of the materials who have requested anonymity.

15 (15) Records expressly made confidential,
16 privileged, or otherwise exempted from disclosure by state or
17 federal statutes, federal or self-regulatory organization
18 rules or regulations, administrative rules approved through
19 the Alabama Administrative Procedure Act, case law, agency
20 opinions, or professional rules of conduct, including, but not
21 limited to, model rules of conduct applicable to a record or a
22 governmental agency.

23 (16) Ballots reflecting votes in any election that
24 is being contested or for which the contest period has not
25 expired.

26 (17) Information contained in the complaint and
27 investigative files of state administrative agencies

1 authorized by law to investigate or conduct administrative
2 contested case proceedings in any matter related to the grant,
3 denial, revocation, suspension, restriction or other
4 discipline of a professional or occupational license or
5 registration, except to the extent the information is made
6 public through resolution of the matter in a contested case
7 proceeding or informal disposition of a contested case.

8 (18) Administrative or technical information
9 regarding computer hardware, software, or networks which, if
10 disclosed, could aid or allow a security breach or any
11 unauthorized access. Any administrative or technical
12 information that is disclosed as part of a procurement process
13 may be redacted or removed from documents that are otherwise
14 public records. For purposes of this subdivision,
15 administrative or technical information shall include, without
16 limitation, all of the following:

17 a. Software source code and configurations, whether
18 developed by the state or otherwise.

19 b. Login or authentication credentials for any
20 electronic system, whether those credentials are
21 administrative or individual, including biometric data.

22 c. Records pertaining to security assessments and
23 testing of information technology systems, including cyber
24 security plans; vulnerability testing; reports, audits, and
25 assessments materials; compliance reports; detailed network
26 system designs, diagrams, and schematics; detailed hardware
27 and software inventories; or any combination thereof.

1 (b) (1) The exemptions in subsection (a) are not
2 mutually exclusive.

3 (2) The exemptions in subsection (a) are to be
4 construed narrowly, with the express purpose of making as many
5 records considered public records as possible.

6 (c) Notwithstanding any of the exemptions in
7 subsection (a):

8 (1) Governmental records that are determined to be
9 of historic value by the State Records Commission pursuant to
10 Section 41-13-21, Code of Alabama 1975, or the Local
11 Government Records Commission pursuant to Section 41-13-23,
12 Code of Alabama 1975, and that are transferred to the custody
13 of the Department of Archives and History shall be open to
14 public inspection and use for 10 years following the date they
15 were due to be transferred, subject to rules as to time,
16 place, and manner, as adopted by the Department of Archives
17 and History.

18 (2) Governmental records expressly declared to be
19 open to public inspection by other state law shall remain open
20 under the terms and subject to any limitations provided for in
21 any other state law specifically applicable to those records.

22 (d) Nothing in this section shall prohibit any
23 governmental agency or governmental official from destroying
24 or otherwise disposing of governmental records in accordance
25 with Section 41-13-21 or Section 41-13-23, Code of Alabama
26 1975, and nothing in this section shall give any person the

1 right to prevent lawful destruction or disposition under those
2 sections.

3 Section 6. Procedures to Access Public Records from
4 a Custodian.

5 (a) Public records shall be open to inspection and
6 copying by any person during the regular office hours of the
7 custodian of the public records. The custodian may require the
8 requestor to provide his or her name and, if relevant, an
9 address where records are to be sent. The custodian may
10 require the request to be in writing.

11 (b) A request for public records shall identify the
12 requested records with reasonable specificity. The request
13 need not make reference to this act in order to invoke the
14 provisions of this act or to impose the time limits for
15 response by the custodian. A request may be made on a form as
16 provided in subsection (a) of Section 9. The requestor may
17 submit the request by mail or electronic means. A custodian of
18 governmental records shall, as soon as practicable, but in all
19 cases within 14 calendar days of receiving a request, take one
20 of the following actions:

21 (1) Provide the requested records.

22 (2) Provide a method for the requestor to access the
23 requested records.

24 (3) Make the source records available for search by
25 the requestor.

26 (4) Deny access to the requested records because
27 release of the requested records is prohibited by this act or

1 other applicable state or federal law. A denial by a custodian
2 shall comply with all of the following:

3 a. Be in writing on a form and providing at least
4 all of the responsive information noted in subsection (b) of
5 Section 9.

6 b. Identify with reasonable particularity the volume
7 and subject matter of withheld records.

8 c. As to each category of redaction or withheld
9 records, include a citation to the specific provision of state
10 or federal law that authorizes the custodian to redact or
11 withhold the records.

12 d. Contemporaneously be provided by the custodian to
13 the chief executive officer or chairperson of the governmental
14 body employing the custodian.

15 (5) Provide, in part, the requested record and
16 redact, in part, the record because the release of part of the
17 records is prohibited by the laws of this state or federal
18 law. When access to a portion of a requested record is
19 withheld, the custodian may redact only that portion of the
20 requested record to which an exemption applies and shall
21 release the remainder of the requested record.

22 (6) Specify, in writing, that it is not practically
23 possible to provide the requested records or to determine
24 whether they are available within the 14-calendar-day period,
25 and specify, in writing, the conditions that make a response
26 impossible. Within seven calendar days after the conclusion of
27 the 14-calendar-day period established in this subsection, the

1 custodian shall provide one of the responses provided for in
2 subdivisions (1), (2), (3), (4), or (5). The custodian may
3 provide responsive records as they are compiled and become
4 available.

5 (7) Certify that the requested record does not
6 exist.

7 (8) Certify that the requested record is not within
8 the possession, custody, or control of the custodian to whom
9 the request was directed, and identify the proper custodian of
10 the record if the identity of the proper custodian is known to
11 the custodian to whom the original request was directed.

12 (c) A custodian or governmental body may petition
13 the public access counselor for additional time to respond to
14 a request for records when the request is for an extraordinary
15 volume of records and a response within the time required by
16 this act will prevent the custodian or the custodian's staff
17 from meeting operational responsibilities.

18 (1) Before proceeding with the petition, the
19 custodian or governmental body shall make reasonable efforts
20 to reach an agreement with the requestor providing for the
21 production of the records requested, a method for the
22 requestor to access the requested records, or the making of
23 records available for search by the requestor.

24 (2) A custodian or governmental body petitioning for
25 an extension of time to respond pursuant to this subsection
26 shall attach to the request a short and plain statement of why
27 an extension is needed and the amount of time requested.

1 (3) The counselor may order the requestor to respond
2 to the request or issue a response to the request for more
3 time without requiring a response from the requestor.

4 (4) The counselor shall issue a written response to
5 any request from a custodian or governmental body for more
6 time within five business days of receipt of the request or,
7 if a response was ordered from the requestor, within five days
8 of the receipt of the response of the requestor of the
9 records.

10 (d) Subject to subsection (c) of Section 8, a
11 custodian or governmental body shall not be required to create
12 a new record if the requested record does not already exist. A
13 custodian or governmental body may abstract, compile, create,
14 or summarize information under fees, terms, and conditions as
15 agreed between the requestor and the custodian or governmental
16 body.

17 (e) Failure by a custodian or governmental body to
18 respond to a request for records within the time limits
19 specified in this section shall be deemed an improper denial
20 of the request and shall constitute a violation of this act.

21 (f) Public records received or maintained by a
22 private individual or private business in connection with the
23 performance of a service or function by that individual or
24 business for or on behalf of a governmental body shall be
25 subject to disclosure by the custodian of the governmental
26 body to the same extent that the records would be subject to
27 disclosure if received, possessed, or maintained by the

1 custodian. Private individuals or private businesses having
2 possession of any records obtained in the performance of a
3 service or function by that individual or business for or on
4 behalf of a governmental body which are not in the actual
5 possession of the responsible custodian of the governmental
6 body shall immediately provide the records to the custodian
7 upon request of the custodian.

8 (g) Each governmental body shall adopt internal
9 procedures and may adopt rules consistent with this section to
10 be followed in responding to requests for access to inspect or
11 copy public records.

12 (1) These rules or procedures shall provide for full
13 access to public records, protect records from damage and
14 disorganization, prevent excessive disruption of the body's
15 essential functions, provide assistance and information upon
16 request, and ensure efficient and timely action in response to
17 requests for inspection of public records.

18 (2) Procedures adopted under this subsection shall
19 not require requests for public records to be submitted in
20 person.

21 (h) Each governmental body having possession,
22 custody, or control of public records shall designate the
23 persons as necessary to carry out the duties of custodian
24 under this act and shall ensure that a custodian, or his or
25 her designee, is available during regular business hours of
26 the governmental body to carry out the duties of custodian.

1 (i) Each governmental body, upon request of any
2 person, shall provide the following information:

3 (1) The principal office of the governmental body
4 and its regular office hours.

5 (2) The title, phone number, email address, and
6 physical address of the custodian of the records of the
7 governmental body and of any other governmental employee who
8 is ordinarily available to act on record requests made at the
9 location where public records can be viewed.

10 (3) The usual fees, if any, charged for copies of
11 public records.

12 (4) The written procedures to be followed in
13 requesting access to and obtaining copies of a public record.
14 If the governmental body has an official website, the
15 procedures for requesting public records shall be made
16 accessible to the public on the official website and at all
17 public offices for the governmental body where public records
18 can be requested or viewed.

19 (i) A requestor who intentionally makes a false
20 statement as part of a request for public records or during an
21 administrative appeal under Section 11 is guilty of a Class C
22 misdemeanor punishable by a fine of up to one thousand dollars
23 (\$1,000.00) per violation.

24 Section 7. Charges for Public Records.

25 (a) A custodian or governmental body shall not
26 charge any fee for a requestor to view a public record. For
27 the protection of original governmental records, custodians

1 may provide copies of public records for review by persons at
2 no charge or impose restrictions on the ability of persons to
3 handle or damage original governmental records. Persons may
4 not be prohibited from using their own equipment to
5 photograph, electronically scan, or make copies of public
6 records at their own expense unless those arrangements could
7 reasonably be expected to cause damage to original
8 governmental records or unreasonably disrupt the
9 administration of the governmental agency. Custodians may
10 provide copies of public records to requestors without charge,
11 and shall do so when it is practicable.

12 (b) A custodian or governmental body may make
13 reasonable charges not to exceed its actual cost incurred in
14 accessing, duplicating, or supplying requested records, as
15 further provided in this section. No custodian or governmental
16 body may impose any extraneous, overhead, intermediary, or
17 surplus fees or expenses to recoup costs associated with
18 creating or maintaining governmental records or transacting
19 the general business of the custodian or governmental body
20 upon a requestor of public records residing in this state.

21 (c) Any hard-copy or non-electronic duplicating fee
22 charged by a custodian or governmental body shall not
23 unreasonably exceed the actual cost of duplication. A charge
24 of twenty cents (\$.20) or less per page for copying
25 non-electronic records sized 8 and one-half by 11 or 14 inches
26 in a black and white format shall be considered a prima facie
27 reasonable charge unless the requestor can provide substantial

1 evidence that the actual cost per page was more than ten cents
2 (\$.10) less than the amount charged. A custodian may charge up
3 to thirty cents (\$.30) per page for two-sided copies. A charge
4 of seventy-five cents (\$.75) or less per page for copying
5 non-electronic records sized 8 and one-half by 11 or 14 inches
6 in a color format shall be considered a prima facie reasonable
7 charge unless the requestor can provide substantial evidence
8 that the actual cost per page was more than twenty cents
9 (\$.20) less than the amount charged.

10 (d) A custodian or governmental body may charge the
11 actual cost to the custodian for supplying larger sized hard
12 copies of public records.

13 (e) A public record produced from a geographical
14 information system shall be provided to the owner of the land
15 that is the subject of the request at actual cost. When a
16 public record produced from a geographical information system
17 is requested by a person who is not the owner of the subject
18 property, the custodian or governmental body may charge for
19 the cost of creating topographical maps developed by the
20 custodian or governmental body, on a pro rata per acre basis,
21 for any maps or portions thereof that encompass a contiguous
22 area greater than 50 acres.

23 (f) If the charge for copies of public records 8 and
24 one-half by 14 inches or smaller exceeds the charges that are
25 deemed to be prima facie reasonable charges as set forth in
26 subsection (c), then the charge for the supplying requested
27 records shall be estimated by the custodian and communicated

1 to the requestor no later than 24 hours in advance of the
2 deadline for the custodian to respond to the request. If the
3 estimation is not communicated as required under this
4 subsection, the custodian may not charge more than the charges
5 set forth in subsection (c) for copies of public records 8 and
6 one-half by 14 inches or smaller.

7 (g) Where a custodian or governmental body
8 determines in advance that charges for producing the requested
9 records are likely to exceed two hundred dollars (\$200), the
10 custodian or governmental body, before continuing to process
11 the request, may require the requestor to agree to payment of
12 a deposit not to exceed the amount of the advance
13 determination. The deposit shall be credited toward the final
14 cost of supplying the requested records. The period within
15 which the custodian or governmental body shall respond under
16 this subsection shall be tolled for the amount of time between
17 delivery of notice of the advance determination and the
18 response of the requestor. If the deposit amount exceeds the
19 actual costs of reproduction, the custodian or governmental
20 body shall refund the remainder to the requestor.

21 (h) A custodian or governmental body may require a
22 requestor to pay any amounts owed to the custodian or
23 governmental body for previous requests for records that
24 remain unpaid 30 days or more after billing prior to
25 processing any additional request for records.

26 (i) Unless expressly authorized to charge a larger
27 amount by law, when requested to provide a certified copy of a

1 public record, a governmental agency may charge up to one
2 dollar (\$1) per copy for the first 10 pages, fifty cents
3 (\$.50) for the next 90 pages of the same record and
4 twenty-five cents (\$.25) for any additional certified copies
5 for the same record.

6 (j) Public records maintained by a custodian or
7 governmental body in an electronic data processing system,
8 computer database, or any other structured collection of data
9 shall be made available to a requestor at a reasonable cost,
10 not to exceed the actual cost in accordance with subsection
11 (c). If the records are produced only in electronic format,
12 then the cost shall not exceed one cent (\$0.01) per page.

13 Section 8. Electronic Data.

14 (a) A custodian or governmental body shall produce
15 public records maintained in an electronic database in any
16 tangible medium identified by the requestor if the request
17 output is within the capabilities of the software system used
18 by the custodian or governmental body. This may include, where
19 the custodian or governmental body has the capability, the
20 option of posting the records on a website or delivering the
21 records through an electronic mail address provided by the
22 requestor, if that medium is used by the custodian or
23 governmental body in the regular course of business. A
24 custodian or governmental body shall not be required to
25 produce records from an electronic database in a format not
26 within the capability of the software used by the custodian or
27 governmental body.

1 (b) A custodian or governmental body shall make
2 reasonable efforts to provide records in any format within the
3 capability of the software utilized by the custodian or
4 governmental body under the terms and conditions as agreed
5 with the requestor, including the payment of reasonable costs,
6 or to provide a method for the requestor to access the
7 requested records or make the source records available for
8 search by the requestor.

9 (c) The conversion of data from one existing format
10 to another existing format already available to the
11 governmental agency without additional cost shall not be
12 considered the creation, preparation, or compilation of a new
13 public record. However, a custodian or a governmental body may
14 charge additional fees for running a query or excising exempt
15 fields as provided in subsection (d) of Section 6.

16 (d) When designing or acquiring an electronic
17 recordkeeping system, a governmental agency shall consider
18 whether the system is capable of providing data in a common
19 format such as, but not limited to, portable data format,
20 comma separated values, or the American Standard Code for
21 Information Interchange.

22 (e) A governmental agency shall not enter into a
23 contract for the creation or maintenance of a public records
24 database if that contract impairs the ability of the public to
25 inspect or copy public records of the agency.

26 (f) Subject to restrictions of copyright and trade
27 secret laws and governmental record exemptions to disclosure,

1 use by a governmental agency of proprietary software may not
2 diminish the right of the public to inspect and copy a public
3 record.

4 Section 9. Suggested Forms.

5 (a) A governmental body shall make available online
6 and upon written request a sample records request form in
7 substantially the following format:

8 SAMPLE RECORDS REQUEST FORM

9 Date of Request: _____

10 ___ Copy Requested

11 ___ Record To Be Reviewed On Site

12 Public Body/Agency/Department _____

13 Requestor Information:

14 Name: _____

15 Address: _____

16 Phone: _____

17 Email: _____

18 Preferred Contact Method: _____

19 Preferred Delivery Method: _____

20 List of Records Requested:

21 Optional: Any additional information you may wish to
22 provide that might expedite this process (case number, code
23 section).

24 Requestor Signature: _____

25 Print Name: _____

26 Received By:

27 Name: _____

1 Signature: _____

2 Date: _____

3 (b) A governmental body shall establish and use a
4 Sample Records Request Response Form in substantially the
5 following format:

6 SAMPLE RECORDS REQUEST RESPONSE FORM

7 Name of Requestor: _____

8 Date of Request: _____

9 Record Requested: _____

10 Date of Determination/Response: _____

11 METHOD OF REQUEST:

12 ___ In Person

13 ___ Email

14 ___ Mail

15 ___ Phone

16 ___ Fax

17 METHOD OF RESPONSE:

18 ___ In Person

19 ___ Email

20 ___ Mail

21 ___ Phone

22 ___ Fax

23 The office of _____ makes the
24 following determination/response to the above referenced
25 records request:

26 ___ The record is provided to the requestor.

1 ___ The record(s) is/are entirely withheld because
2 the release of the records is prohibited by law. Responder
3 must cite specific code section as to each category of
4 withheld record.

5 ___ The record(s) is/are provided in part and
6 withheld in part because the release of part of the record is
7 prohibited by law. Responder must cite specific code section
8 as to each category of withheld record.

9 ___ It is not practically possible to provide the
10 requested records or to determine whether the records are
11 available within the 14 day period.

12 Responder must cite conditions that make response
13 impossible. If response is made within 14 days, the Public
14 Body will have an additional seven days in which to provide
15 one of the three preceding responses.

16 ___ I certify that the requested record(s) do not
17 exist.

18 ___ I certify that I do not have possession, custody
19 or control over the requested record(s).

20 Determination/Response made by:

21 Print Name and Title: _____

22 Signature: _____

23 Section 10. Public Access Counselor.

24 (a) There is established an office of Public Access
25 Counselor in the Alabama Department of Examiners of Public
26 Accounts.

1 (1) The office shall be administered by the Public
2 Access Counselor.

3 (2) The Alabama Department of Examiners of Public
4 Accounts shall designate a person having a juris doctorate to
5 serve as Public Access Counselor at a salary to be fixed by
6 the Department.

7 (b) The counselor shall have all of the following
8 powers and duties:

9 (1) To conduct research.

10 (2) To prepare interpretive and educational
11 materials and programs in cooperation with the Office of the
12 Attorney General.

13 (3) To distribute to newly elected or appointed
14 governmental officials this act and educational materials
15 concerning this act.

16 (4) To respond to informal inquiries made by
17 requestors by telephone, in writing, in person, by facsimile,
18 or by electronic mail concerning this act.

19 (5) To grant or deny petitions from custodians for
20 extensions of time to respond to a request for records
21 pursuant to subsection (c) of Section 6.

22 (6) To issue advisory opinions to interpret this act
23 upon the request of a requestor of records.

24 a. Prior to issuance of any advisory opinions, the
25 counselor shall confer with the Attorney General about the
26 request, but the counselor is not bound to follow any written
27 or informal opinion issued by the Attorney General.

1 b. The counselor may not issue an advisory opinion
2 concerning a specific matter with respect to which an
3 administrative appeal or lawsuit is pending.

4 (7) To issue formal administrative findings relating
5 to disputes between requestors and governmental bodies or
6 governmental agencies concerning requests for records.

7 (8) Keep and maintain public records of the
8 administrative appeals and results in a manner that is indexed
9 and searchable by the custodian and governmental body involved
10 in each appeal.

11 Section 11. Administrative Appeals to the Public
12 Records Counselor.

13 (a) A requestor denied the right to inspect or copy
14 records by a custodian may appeal to the Public Access
15 Counselor by filing a notice of administrative appeal to the
16 counselor.

17 (b) A notice of administrative appeal to the
18 counselor shall be filed within 30 days after the denial by
19 the custodian. For purposes of this subsection, the notice of
20 appeal shall be deemed to be filed on the date it is received
21 by the counselor or, if received more than 30 days after the
22 date of the denial from which the appeal is taken, on the date
23 it is postmarked.

24 (c) A notice of administrative appeal shall contain
25 all of the following:

26 (1) A filing fee of one hundred dollars (\$100) or an
27 accompanying affidavit of substantial hardship.

1 (2) A copy of the written record request submitted
2 to the custodian by the requestor.

3 (3) A copy of the written response provided by the
4 custodian, or, if no response was made, a statement that no
5 response was provided by the custodian.

6 (4) A short and plain statement of the relief sought
7 by the requestor.

8 (5) A certificate showing service of the appeal and
9 a copy of all the documents submitted was sent to the
10 custodian who denied the request, in whole or in part.

11 (d) Within five business days of receipt of a
12 properly documented administrative appeal accompanied by the
13 requisite filing fee, the counselor shall either dismiss the
14 appeal as having no merit or issue a ruling requiring the
15 custodian to respond to the appeal within 10 business days.

16 (e) If the counselor orders a response from the
17 custodian, the custodian shall file with the counselor within
18 10 business days a response containing all of the following:

19 (1) Copies of a representative sample of the
20 records requested without any redaction. Copies of these
21 unredacted records shall not be served upon the requestor
22 filing the appeal.

23 (2) Copies of a representative sample of the records
24 requested as provided to the requestor, if any.

25 (3) A statement as to why the request should not be
26 granted.

1 (4) A certificate showing that the custodian has
2 served a copy of the statement as to why the request should
3 not be granted upon the requestor.

4 (f) If a custodian does not respond as required, the
5 counselor shall order the records produced as requested in the
6 appeal and require the governmental body that designated the
7 custodian to pay one hundred dollars (\$100) to the requestor.
8 The governmental body shall pay the requestor upon the
9 conclusion of the 30-day period provided in subsection (a) of
10 Section 12, or upon the resolution of an appeal under Section
11 12, whichever occurs later.

12 (g) Within five business days of receipt of a timely
13 response of the custodian, the counselor shall issue a written
14 ruling regarding the request which shall be binding upon the
15 custodian and requestor unless a timely judicial appeal is
16 filed as set forth in this section.

17 (h) If the counselor rules that any public record or
18 portion thereof was improperly withheld, the counselor shall
19 order the governmental body that designated the custodian to
20 pay one hundred dollars (\$100) to the requestor. The
21 governmental body shall pay the requestor upon the conclusion
22 of the 30-day period provided in subsection (a) of Section 12,
23 or upon the resolution of an appeal under Section 12,
24 whichever occurs later.

25 (i) If the counselor denies any relief to the
26 requestor then the requestor shall bear the requestor's own
27 costs of the appeal.

1 (j) The requestor or custodian may appeal the
2 administrative decision of the counselor by filing a civil
3 action pursuant to Section 12.

4 (k) The requestor or custodian appellant shall also
5 serve a copy of the appeal upon the counselor.

6 (l) The proceedings in circuit court shall be de
7 novo.

8 (m) The counselor, once served with a copy of a
9 judicial appeal civil action, may elect to withdraw as a party
10 from the circuit court appeal or appear only as an amicus
11 curiae. The election must be made and filed within 14 days of
12 service upon the counselor.

13 (n) If no judicial appeal is filed challenging the
14 decision of the counselor, the decision of the counselor shall
15 be final and binding upon the requestor and custodian.

16 Section 12. Judicial Appeal; Enforcement; Penalties

17 (a) (1) Any requestor may enforce this act, and any
18 custodian or requestor may appeal an adverse decision issued
19 by the counselor, by filing a civil complaint in any of the
20 following:

21 a. A circuit court in the judicial circuit in which
22 the records in question were situated.

23 b. A circuit court in the judicial circuit in which
24 the alleged violation of this chapter occurred.

25 c. The Circuit Court of Montgomery County.

26 (2) A complaint by a requestor for judicial
27 enforcement or by a requestor or custodian for judicial appeal

1 of a decision by the counselor shall be filed within 30 days
2 of a written response by the custodian containing a partial or
3 total denial by the custodian or within 30 days of the
4 issuance of a written ruling by the counselor, whichever is
5 later.

6 (3) The complaint shall be verified by the
7 petitioner and shall allege with reasonable specificity the
8 circumstances of the denial of rights and privileges conferred
9 by this act or, if an appeal from an administrative decision
10 by the counselor, allege with reasonable specificity the
11 reasons the counselor's decision should be reversed.

12 (4) If the complaint alleges the wrongful
13 withholding of a public record, the complaint shall also
14 include a copy of the request for the record in controversy
15 and a copy of the response of the custodian, if a response was
16 received and any decision of the counselor, if an
17 administrative appeal was sought.

18 (5) The filing of an administrative appeal pursuant
19 to Section 11 is not a prerequisite to filing a civil action.

20 (6) If an administrative appeal was sought with the
21 counselor, the judicial appeal shall include a copy of the
22 decision of the counselor attached to the initial filing.

23 (b) The burden of proof in civil actions brought
24 under this act with regard to access to public records shall
25 rest with the custodian or governmental body seeking to
26 withhold or deny access to a requestor.

1 (c) With regard to disputes involving the amount
2 charged for accessing or taking a copy of public records,
3 subject to those charges deemed reasonable by subsection (c)
4 of Section 7, the burden of proving the charges comply with
5 this act shall be on the custodian or governmental body
6 asserting the charges.

7 (d) The circuit court shall review the matter de
8 novo regardless of whether it was filed as an appeal from the
9 decision of the counselor or as a direct action against the
10 custodian or governmental body.

11 (e) The circuit court may review any record in
12 controversy in camera. The circuit court may permit the
13 parties to engage in discovery pursuant to the Alabama Rules
14 of Civil Procedure. Discovery may not proceed without the
15 approval of the circuit court.

16 (f) The circuit court may order either party to
17 notify any private individual, private business, governmental
18 employee or governmental official whose name appears in the
19 requested records of the filing of the suit. Any entity shall
20 have standing to intervene in any suit regarding a request for
21 records to argue and present evidence for or against the
22 release of requested records.

23 (g) If the court determines that a record was
24 properly withheld under this act, the contents of the record
25 shall not be disclosed or used in any other legal proceeding
26 by any individual or attorney who attends the in camera
27 portion of the proceedings.

1 (h) The circuit court shall have jurisdiction to
2 enjoin a custodian or governmental body from withholding
3 records, to order the disclosure of a record, and to grant any
4 other equitable relief as may be appropriate.

5 (i) The circuit court shall impose a civil penalty
6 against the governmental body that designated a custodian who
7 is determined to have failed to respond to a record request or
8 intentionally withheld a public record without reasonable
9 justification. Reasonable justification under this section
10 shall include, but is not limited to, a good faith reliance on
11 any currently operative law, an Opinion of the Attorney
12 General, or an advisory or formal decision of the Public
13 Access Counselor.

14 (j) The civil penalties under this section shall be:

15 (1) Not less than seventy-five dollars (\$75) per day
16 from the date the public record should have been provided to
17 the requestor.

18 (2) Not more than one thousand five hundred dollars
19 (\$1500) for the first violation of this act, without
20 reasonable justification, in the two years preceding the
21 filing of the civil complaint.

22 (3) Not more than three thousand dollars (\$3000) for
23 the second violation of this act, without reasonable
24 justification, in the two years preceding the filing of the
25 civil complaint.

26 (4) Not more than three thousand five hundred
27 dollars (\$3500) for each additional violation of this act,

1 without reasonable justification, in the two years preceding
2 the filing of the civil complaint.

3 (k) A governmental body may pay for or provide for
4 the legal expenses of the custodian of the record in a
5 proceeding initiated under this chapter, and the governmental
6 body may also pay for or reimburse any costs or fees owed to
7 the requestor under this act.

8 (l) All civil penalties imposed under this section
9 shall be deposited in the State General Fund.

10 (m) Except as to cases the court considers of
11 greater importance, proceedings initiated under this act shall
12 be given precedence over all other cases in the circuit and
13 appellate courts. All hearings, trials, and oral arguments in
14 proceedings initiated under this act shall be assigned for the
15 earliest practicable date.

16 Section 13. Immunity.

17 In addition to any existing immunity that may apply,
18 the counselor and any custodian, governmental employee, or
19 governmental official shall have immunity from civil or
20 criminal liability relating to the publication of any
21 defamatory statements or invasions of privacy contained in any
22 records produced which were not authored by the counselor,
23 custodian, governmental employee, or governmental official
24 providing the record even if it is later determined
25 administratively or judicially that the record was not a
26 public record, unless a court determines that the counselor,
27 custodian, governmental employee, or governmental official

1 acted in an unreasonable manner in deciding that the document
2 was a public record, producing any record to a requestor, or
3 giving an informal or formal opinion that the records be
4 produced.

5 Section 14. Repeal of Open Records Act.

6 (a) Sections 36-12-40 and 36-12-41, Code of Alabama
7 1975, are repealed. All specific references in the Code of
8 Alabama 1975, to Sections 36-12-40 or 36-12-41, Code of
9 Alabama 1975, shall be considered a reference to this act.

10 (b) Any express exclusions or inclusions found in
11 the Code of Alabama 1975, in regards to the application of
12 Section 36-12-40, Code of Alabama 1975, shall apply to the new
13 sections created by this act.

14 (c) The Code Commissioner shall conform references
15 within the Code of Alabama 1975, to Sections 36-12-40 and
16 36-12-41, Code of Alabama 1975, to reflect the changes made by
17 this act. Code changes to make the required conforming changes
18 shall be made at a time determined to be appropriate by the
19 Code Commissioner.

20 (d) Nothing in this act shall be construed to repeal
21 or amend any portion of the Code of Alabama 1975, in effect on
22 the effective date of this act except as otherwise expressly
23 provided within this act.

24 Section 15. Although this bill would have as its
25 purpose or effect the requirement of a new or increased
26 expenditure of local funds, the bill is excluded from further
27 requirements and application under Amendment 621, now

1 appearing as Section 111.05 of the Official ReCompilation of
2 the Constitution of Alabama of 1901, as amended, because the
3 bill defines a new crime or amends the definition of an
4 existing crime.

5 Section 16. Severability.

6 The provisions of this act are severable. If any
7 part of this act is declared invalid or unconstitutional, that
8 declaration shall not affect the part which remains.

9 Section 17. Effective Date.

10 This act shall become effective on the first day of
11 the third month following its passage and approval by the
12 Governor, or its otherwise becoming law.