

MISSISSIPPI CODE OF 1972
TITLE 25
CHAPTER 61
PUBLIC ACCESS TO PUBLIC RECORDS

Section

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§ 25-61-1. Short title; legislative policy regarding right of access to records.

This chapter shall be known and may be cited as the "Mississippi Public Records Act of 1983." It is the policy of the Legislature that public records must be available for inspection by any person unless otherwise provided by this act [Laws, 1996, ch. 453]. Furthermore, providing access to public records is a duty of each public body and automation of public records must not erode the right of access to those records. As each agency increases its use of and dependence on electronic record keeping, each agency must ensure reasonable access to records electronically maintained, subject to the rules of records retention.

Sources: Laws, 1983, ch. 424, § 1; Laws, 1996, ch. 453, § 1, eff from and after July 1, 1996.

§ 25-61-2. State policy regarding access to public records.

It is the policy of this state that public records shall be available for inspection by any person unless otherwise provided by this chapter; furthermore, providing access to public records is a duty of each public body and automation of public records must not erode the right of access to those records. As each public body increases its use of, and dependence on, electronic record keeping, each public body must ensure reasonable access to records electronically maintained, subject to records retention.

Sources: Laws, 1996, ch. 537, § 5, eff from and after July 1, 1996.

§ 25-61-3. Definitions.

The following words shall have the meanings ascribed herein unless the context clearly requires

otherwise:

(a) "Public body" shall mean any department, bureau, division, council, commission, committee, subcommittee, board, agency and any other entity of the state or a political subdivision thereof, and any municipal corporation and any other entity created by the Constitution or by law, executive order, ordinance or resolution. Within the meaning of this chapter, the term "entity" shall not be construed to include individuals employed by a public body or any appointed or elected public official.

(b) "Public records" shall mean all books, records, papers, accounts, letters, maps, photographs, films, cards, tapes, recordings or reproductions thereof, and any other documentary materials, regardless of physical form or characteristics, having been used, being in use, or prepared, possessed or retained for use in the conduct, transaction or performance of any business, transaction, work, duty or function of any public body, or required to be maintained by any public body.

(c) "Data processing software" means the programs and routines used to employ and control the capabilities of data processing hardware, including, but not limited to, operating systems, compilers, assemblers, utilities, library routines, maintenance routines, applications and computer networking programs.

(d) "Proprietary software" means data processing software that is obtained under a licensing agreement and is protected by copyright or trade secret laws.

Sources: Laws, 1983, ch. 424, § 2; Laws, 1996, ch. 453, § 2, eff from and after July 1, 1996.

§ 25-61-5. Public access to records; form and retention of denials.

(1) Except as otherwise provided by Sections 25-61-9 and 25-61-11, all public records are hereby declared to be public property, and any person shall have the right to inspect, copy or mechanically reproduce or obtain a reproduction of any public record of a public body in accordance with reasonable written procedures adopted by the public body concerning the cost, time, place and method of access, and public notice of the procedures shall be given by the public body, or, in the event that a public body has not adopted such written procedures, the right to inspect, copy or mechanically reproduce or obtain a reproduction of a public record of the public body shall be provided within one (1) working day after a written request for a public record is made. No public body shall adopt procedures which will authorize the public body to produce or deny production of a public record later than fourteen (14) working days from the date of request for the production of such record.

(2) Denial by a public body of a request for access to or copies of public records under this chapter shall be in writing and shall contain a statement of the specific reasons for the denial. Each public body shall maintain a file of all denials of requests for public records. Public bodies shall be required to preserve such denials on file for not less than three (3) years from the date such denials are made. This file shall be made available for inspection and/or copying during regular office hours to any person upon written request.

Sources: Laws, 1983, ch. 424, § 3, eff from and after July 1, 1983.

§ 25-61-7. Fees for costs incident to providing records.

(1) Except as provided in subsection (2) of this section, each public body may establish and collect fees reasonably calculated to reimburse it for, and in no case to exceed, the actual cost of searching, reviewing and/or duplicating and, if applicable, mailing copies of public records. Such fees shall be collected by the public body in advance of complying with the request.

(2) A public body may establish a standard fee scale to reimburse it for the costs of creating, acquiring and maintaining a geographic information system or multipurpose cadastre as authorized and defined under Section 25-61-1 et seq., or any other electronically accessible data. Such fees must be reasonably related to the cost of creating, acquiring and maintaining the geographic information system, multipurpose cadastre or other electronically accessible data, for the data or information contained therein or taken therefrom and for any records, papers, accounts, maps, photographs, films, cards, tapes, recordings or other materials, data or information relating thereto, whether in printed, digital or other format. In determining the fees or charges under this subsection, the public body may consider the type of information requested, the purpose or purposes for which the information has been requested and the commercial value of the information.

Sources: Laws, 1983, ch. 424, § 4; Laws, 1999, ch. 466, § 2, eff from and after July 1, 1999.

§ 25-61-9. Trade secrets and confidential commercial or financial information.

(1) Records furnished to public bodies by third parties which contain trade secrets or confidential commercial or financial information shall not be subject to inspection, examination, copying or reproduction under this chapter until notice to said third parties has been given, but such records shall be released within a reasonable period of time unless the said third parties shall have obtained a court order protecting such records as confidential.

(2) If any public record which is held to be exempt from disclosure pursuant to this chapter contains material which is not exempt pursuant to this chapter, the public body shall separate the exempt material and make the nonexempt material available for examination and/or copying as provided for in this chapter.

(3) Trade secrets and confidential commercial and financial information of a proprietary nature developed by a college or university under contract with a firm, business, partnership, association, corporation, individual or other like entity shall not be subject to inspection, examination, copying or reproduction under this chapter.

(4) Misappropriation of a trade secret shall be governed by the provisions of the Mississippi Uniform Trade Secrets Act, Sections 75-26-1 through 75-26-19.

(5) A waste minimization plan and any updates developed by generators and facility operators under the Mississippi Comprehensive Multimedia Waste Minimization Act of 1990 shall be retained at the facility and shall not be subject to inspection, examination, copying or reproduction under this chapter.

(6) Data processing software obtained by an agency under a licensing agreement that prohibits its disclosure and which software is a trade secret, as defined in Section 75-26-3, and data processing software produced by a public body which is sensitive must not be subject to inspection, copying or reproduction under this chapter.

As used in this subsection, "sensitive" means only those portions of data processing software, including the specifications and documentation, used to:

- (a) Collect, process, store, and retrieve information which is exempt under this chapter.
- (b) Control and direct access authorizations and security measures for automated systems.
- (c) Collect, process, store, and retrieve information, disclosure of which would require a significant intrusion into the business of the public body.

Sources: Laws, 1983, ch. 424, § 5; Laws, 1988, ch. 406, § 1; Laws, 1990, ch. 442, § 12; Laws, 1990, ch. 507, § 15; Laws, 1996, ch. 453, § 3, eff from and after July 1, 1996.

§ 25-61-10. Access to records stored, manipulated or retrieved by sensitive software; acquisition, modification, etc., of systems, etc., used for creation or maintenance of public records data bases.

(1) Any public body that uses sensitive software, as defined in Section 25-61-9, or proprietary software must not thereby diminish the right of the public to inspect and copy a public record. A public body that uses sensitive software, as defined in Section 25-61-9, or proprietary software to store, manipulate, or retrieve a public record will not be deemed to have diminished the right of the public if it either: (a) If [if] legally obtainable, makes a copy of the software available to the public for application to the public records stored, manipulated, or retrieved by the software; or (b) ensures that the software has the capacity to create an electronic copy of each public record stored, manipulated, or retrieved by the software in some common format such as, but not limited to, the American Standard Code for Information Interchange.

(2) A public body shall provide a copy of the record in the format requested if the public body maintains the record in that format, and the public body may charge a fee which must be in accordance with Section 25-61-7.

(3) Before a public body acquires or makes a major modification to any information technology system, equipment, or software used to store, retrieve, or manipulate a public record, the public body shall adequately plan for the provision of public access and redaction of exempt or confidential information by the proposed system, equipment or software.

(4) A public body may not enter into a contract for the creation or maintenance of a public records data base if that contract impairs the ability of the public to inspect or copy the public records of that agency, including public records that are on-line or stored in an information technology system used by the public body.

Sources: Laws, 1996, ch. 453, § 4, eff from and after July 1, 1996.

§ 25-61-11. Records exempted or privileged by law.

The provisions of this chapter shall not be construed to conflict with, amend, repeal or supersede any constitutional or statutory law or decision of a court of this state or the United States which at the time of this chapter is effective or thereafter specifically declares a public record to be confidential or privileged, or provides that a public record shall be exempt from the provisions of this chapter.

Sources: Laws, 1983, ch. 424, § 6, eff from and after July 1, 1983.

§ 25-61-13. Proceedings to compel public access to records; procedure; remedies.

(1) Any person denied the right granted by Section 25-61-5 to inspect and/or copy public records may institute a suit in the chancery court of the county in which the public body is located, and the court shall determine whether such public record is exempt from the provisions of this chapter, and in making such determination the court shall take into consideration any constitutional or statutory law or decision of any court of this state or the United States or any rule of common law. Process shall be served on the proper officials according to law.

(2) In any suit filed under subsection (1) of this section, the court has the authority to prohibit the public body from withholding the public records, to order the production of any public records improperly withheld from the person seeking disclosure, and to grant such other equitable relief as may be proper. The court, on its own motion, may privately view the public records in controversy before reaching a decision.

(3) Proceedings arising under this section shall take precedence on the docket over all other matters and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way. Such suits may be heard in termtime or in vacation.

(4) Any suit filed under this section shall be subject to all the rights and rules of appeal for other suits arising in chancery court.

Sources: Laws, 1983, ch. 424, § 7, eff from and after July 1, 1983.

§ 25-61-15. Penalty for wrongful denial of access to record.

Any person who shall willfully and knowingly deny to any person access to any public record which is not exempt from the provisions of this chapter shall be liable civilly in a sum not to exceed one hundred dollars (\$100.00), plus all reasonable expenses incurred by such person bringing the lawsuit.

Sources: Laws, 1983, ch. 424, § 8, eff from and after July 1, 1983.

§ 25-61-17. Chapter not to affect legislature's regulation of own proceedings and records access.

Nothing in this chapter shall be construed as denying the legislature the right to determine the rules of its own proceedings and to regulate public access to its records.

Sources: Laws, 1983, ch. 424, § 9, eff from and after July 1, 1983.