



New Amendments to the Freedom of Information Act – Public Act 523 of 2018

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Effective December 28, 2018, the Legislature approved two important amendments to the Michigan Freedom of Information Act. Public Act 523 added a new requirement to Section 3 regarding the information that must be included in a FOIA request. In addition, Act 523 amended Section 4 to address what happens when a requester does not pay a deposit in a timely manner.

Section 3 of the FOIA now requires that the requesting person must include that person's complete name, address, and contact information, and, if the request is made by a person other than an individual, the complete name, address, and contact information of the person's agent who is an individual. An address must be written in compliance with United States Postal Service addressing standards. Contact information must include a valid telephone number or electronic mail address. This new requirement does not apply to an individual who qualifies as indigent under Section 4(2)(a) of the FOIA. Essentially, the amendment prevents an anonymous FOIA or a FOIA that does not fully identify the person making the request. This has been a problem in the past where the requester has sent emails or other written requests using only the first name and little contact information.

Public bodies have also been faced with deciding what to do when a requester does not respond to a request for a deposit. Currently, pursuant to the FOIA, a public body can ask for a deposit of up to ½ of the total estimated fee if that fee is expected to exceed \$50.00. The public body may also ask for 100% deposit if a requester has not paid for a previous request and meets other requirements under the Act. Under FOIA 523, if (1) a public body requests a deposit and (2) that deposit is not received by the public body within 45 days from receipt of the notice of deposit, and (3) if the requesting person has not filed an appeal of the deposit amount, the request shall be considered abandoned by the requesting person. In such case, the public body is no longer required to fulfill the request.

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PRACTICE AREAS

Freedom of Information Act

Municipal & Public Entity Law



Act 523 does include a new notice requirement for deposits. The deposit letter is considered received three days after it is sent, regardless of the means of transmission. The deposit letter must include notice of the **date by which the deposit must be received**, which is 48 days after the date the deposit letter is sent. So, each deposit letter must now include the deadline.

If you have any questions about Act 523 or FOIA compliance, please call Anne Seuryck at (616) 726-2240.