



98TH DISTRICT  
BAY AND MIDLAND COUNTIES  
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MICHIGAN HOUSE OF REPRESENTATIVES  
**REPRESENTATIVE GARY GLENN**  
ASSOCIATE SPEAKER PRO TEMPORE  
*Chairman, House Energy Policy Committee*

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ENERGY POLICY  
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VETERANS AFFAIRS

March 16, 2017

Attorney General Bill Schuette  
Michigan Department of Attorney General  
G. Mennen Williams Building, 7th Floor  
525 W. Ottawa St.  
P.O. Box 30212  
Lansing, MI 48909

General Schuette:

Recent case law from the Court of Appeals seem to indicate that under the Freedom of Information Act, state agencies and other public bodies must provide a response within 5 business days and can obtain a 10-business-day extension on that response. But the implicit statutory boundary for providing the actual documents appears only to be one of reasonableness. MCL 15.234(8) indicates that in responding, a public body may seek a good faith deposit, but it must include a best-faith estimate of completion:

The response shall also contain a best efforts estimate by the public body regarding the time frame it will take the public body to comply with the law in providing the public records to the requestor. The time frame estimate is nonbinding upon the public body, but the public body shall provide the estimate in good faith and strive to be reasonably accurate and to provide the public records in a manner based on this state's public policy under section 1 and the nature of the request in the particular instance.

Despite MCL 15.234(8), MCL 15.240(7) indicates that a suit can be brought for delay in fulfilling a FOIA request. Thus, it appears that the best faith estimate is neither actionable by the FOIA requestor nor a safe harbor for the public body. I have the following questions: (1) In normal circumstances, does a reasonableness standard apply to fulfillment times after

body's response was effectively a denial notwithstanding its choice of labels.

*Id.* at \_\_\_. Thus, inordinate delay is prohibited, but there is little statutory guidance on what constitutes such delay, which led to the previous questions.

Thank you for your assistance in this matter.

Sincerely,



Gary Glenn  
State Representative  
98<sup>th</sup> District