

House Engrossed
public records; time frame

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HOUSE BILL 2808

AN ACT

AMENDING SECTIONS 39-121.01 AND 39-171, ARIZONA REVISED STATUTES; RELATING
TO PUBLIC RECORDS REQUESTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 39-121.01, Arizona Revised Statutes, is amended
3 to read:

4 39-121.01. Definitions; maintenance of records; requests for
5 copies, printouts, photographs or mailing of
6 public records; examination by mail; index;
7 in-person access; denial of request; civil
8 penalty

9 A. In this article, unless the context otherwise requires:

10 1. "Officer" means any person WHO IS elected or appointed to hold
11 any elective or appointive office of any public body and any chief
12 administrative officer, head, director, superintendent or ~~chairman~~
13 CHAIRPERSON of any public body.

14 2. "Public body" means this state, any county, city, town, school
15 district, political subdivision or tax-supported district in this state,
16 any branch, department, board, bureau, commission, council or committee of
17 the foregoing, and any public organization or agency, ~~THAT IS~~ supported
18 in whole or in part by monies from this state or any political subdivision
19 of this state, ~~or expending~~ THAT SPENDS monies provided by this state or
20 any political subdivision of this state.

21 B. All officers and public bodies shall maintain all records,
22 including records as defined in section 41-151, THAT ARE reasonably
23 necessary or appropriate to maintain an accurate knowledge of their
24 official activities and of any of their activities that are supported by
25 monies from this state or any political subdivision of this state.

26 C. Each public body ~~shall be~~ IS responsible for ~~the preservation,~~
27 ~~maintenance and care of~~ PRESERVING, MAINTAINING AND CARING FOR that body's
28 public records, and each officer ~~shall be~~ IS responsible for ~~the~~
29 ~~preservation, maintenance and care of~~ PRESERVING, MAINTAINING AND CARING
30 FOR that officer's public records. It ~~shall be~~ IS the duty of each such
31 body to carefully secure, protect and preserve public records from
32 deterioration, mutilation, loss or destruction, unless THE PUBLIC RECORD
33 IS disposed of pursuant to sections 41-151.15 and 41-151.19.

34 D. Subject to section 39-121.03:

35 1. Any person may request to examine or be furnished copies,
36 printouts or photographs of any public record during regular office hours
37 or may request that the custodian mail a copy of any public record THAT IS
38 not otherwise available on the public body's website to the requesting
39 person. The custodian may require any person requesting that the
40 custodian mail a copy of any public record to pay in advance for any
41 copying and postage charges. The custodian of such records shall,
42 ~~promptly~~ IN ACCORDANCE WITH SECTION 39-171, furnish such copies, printouts
43 or photographs and may charge a fee if the facilities are available,
44 except that public records for purposes listed in section 39-122 or 39-127
45 shall be furnished without charge.

1 2. If requested, the custodian of the records of an agency shall
2 also furnish an index of records or categories of records that have been
3 withheld and the reasons the records or categories of records have been
4 withheld from the requesting person. The custodian shall not include in
5 the index information that is expressly made privileged or confidential in
6 statute or a court order. This paragraph shall not be construed by an
7 administrative tribunal or a court of competent jurisdiction to prevent or
8 require an order compelling a public body other than an agency to furnish
9 an index. For the purposes of this paragraph, "agency" has the same
10 meaning prescribed in section 41-1001 but does not include the department
11 of public safety, the department of transportation motor vehicle division,
12 the department of juvenile corrections and the state department of
13 corrections.

14 3. If the custodian of a public record does not have facilities for
15 making copies, printouts or photographs of a public record that a person
16 has a right to inspect, the person shall be granted access to the public
17 record for the purpose of making copies, printouts or photographs. The
18 copies, printouts or photographs shall be made while the public record is
19 in the possession, custody and control of the custodian of the public
20 record and ~~shall be~~ IS subject to the supervision of the custodian.

21 E. Access to a public record is deemed denied if ~~a~~ THE custodian
22 EITHER:

23 1. Fails to ~~promptly~~ respond to a request for production of a
24 public record IN ACCORDANCE WITH SECTION 39-171. ~~or~~

25 2. Fails to provide to the requesting person an index of any record
26 or categories of records that are withheld from production pursuant to
27 subsection D, paragraph 2 of this section.

28 F. IF IT IS DETERMINED THAT A PUBLIC BODY WILFULLY OR INTENTIONALLY
29 REFUSES TO COMPLY WITH THIS SECTION OR OTHERWISE ACTS IN BAD FAITH, THE
30 PUBLIC BODY SHALL BE ASSESSED A CIVIL PENALTY OF AT LEAST \$500 BUT NOT
31 MORE THAN \$5,000 FOR EACH OCCURRENCE. IN ASSESSING THE CIVIL PENALTY, THE
32 AGGRAVATION OR MITIGATION OF THE PUBLIC BODY AND WHETHER THE PUBLIC BODY
33 HAS PREVIOUSLY BEEN ASSESSED PENALTIES FOR VIOLATIONS OF THIS SECTION
34 SHALL BE CONSIDERED.

35 Sec. 2. Section 39-171, Arizona Revised Statutes, is amended to
36 read:

37 39-171. Public records; requests; point of contact;
38 notification of receipt; civil penalty

39 A. Any entity that is subject to a public records request pursuant
40 to this chapter shall provide the name, telephone number and email address
41 of an employee or department that is authorized and able to provide the
42 information requested or able to forward the request to an employee or
43 department that is authorized and able to provide the information
44 requested. This information shall be made available to the public on the
45 website maintained by the entity.

1 B. Except if the entity maintains a centralized online portal for
2 submission of public records requests that provides A receipt on
3 submission of a request, ~~an employee or department that is authorized and~~
4 ~~able to provide information requested pursuant to subsection A of this~~
5 ~~section shall reply within five business days acknowledging receipt of the~~
6 ~~request.~~ AN ENTITY THAT IS SUBJECT TO A PUBLIC RECORDS REQUEST PURSUANT
7 TO THIS CHAPTER SHALL PROVIDE, WITHIN FIVE BUSINESS DAYS AFTER RECEIPT OF
8 ANY REQUEST FOR PUBLIC RECORDS, A NOTIFICATION THAT INCLUDES THE FOLLOWING
9 INFORMATION:

- 10 1. THAT THE REQUEST HAS BEEN RECEIVED.
- 11 2. CONTACT INFORMATION PURSUANT TO SUBSECTION A OF THIS SECTION.
- 12 3. THE EXPECTED DATE THE REQUEST WILL BE PROCESSED.

13 C. THIS SECTION DOES NOT PREVENT AN ENTITY FROM SUBSEQUENTLY
14 NOTIFYING A REQUESTOR OF A PUBLIC RECORD OF THE DENIAL OR DELAY OF THE
15 REQUEST.

16 D. IF IT IS DETERMINED THAT AN ENTITY WILFULLY OR INTENTIONALLY
17 REFUSES TO COMPLY WITH THIS SECTION OR OTHERWISE ACTS IN BAD FAITH, THE
18 ENTITY SHALL BE ASSESSED A CIVIL PENALTY OF AT LEAST \$500 BUT NOT MORE
19 THAN \$5,000 FOR EACH OCCURRENCE. IN ASSESSING THE CIVIL PENALTY, THE
20 AGGRAVATION OR MITIGATION OF THE ENTITY AND WHETHER THE ENTITY HAS
21 PREVIOUSLY BEEN ASSESSED PENALTIES FOR VIOLATIONS OF THIS SECTION SHALL BE
22 CONSIDERED.