

2021 Regular Session

HOUSE BILL NO. 438

BY REPRESENTATIVE MIGUEZ

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PUBLIC RECORDS: Authorizes a custodian to require a requestor of a public record to provide sufficient proof of identity

1 AN ACT

2 To enact R.S. 44:31(C), relative to public records; to allow a custodian to require sufficient
3 information to establish a requestor's identity; and to provide for related matters.

4 Be it enacted by the Legislature of Louisiana:

5 Section 1. R.S. 42:31(C) is hereby enacted to read as follows:

6 §31. Right to examine records

7 * * *

8 C.(1) Notwithstanding any provision of this Section or of R.S. 44:32 or 33
9 to the contrary, a custodian or his employees may require any person electronically
10 requesting to inspect, copy, or reproduce any public record to provide sufficient
11 information to establish the age and identification of the person unless the requestor
12 is known to the custodian or his employees. For purposes of this Subsection,
13 "sufficient information" shall include any electronic or physical document or
14 identification card which includes name and other identifying information, and if the
15 person is a legal entity or acting as the agent of a legal entity, "sufficient
16 information" shall also include the legitimate name and physical address for the legal
17 entity.

18 (2) If a person electronically requesting to inspect, copy, or reproduce any
19 public record fails to provide sufficient information to establish the age and

1 identification of the person after being requested to do so, neither the custodian or
 2 his employees shall be required to produce the requested records in accordance with
 3 the provisions of this Chapter.

4 (3) Any document submitted to establish the age and identification of the
 5 person pursuant to this Subsection shall not be a public record pursuant to the
 6 provisions of this Chapter.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 438 Engrossed

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Miguez

Abstract: Allows a custodian to require sufficient information to establish the age and identification of the requestor of a public record.

Present law (R.S. 44:1 et seq.—Public Records Law) provides that all books, records, writings, accounts, letters and letter books, maps, drawings, photographs, cards, tapes, recordings, memoranda, and papers, and all copies, duplicates, photographs, including microfilm, or other reproductions thereof, or any other documentary materials, regardless of physical form or characteristics, including information contained in electronic data processing equipment, 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 which was conducted, transacted, or performed by or under the authority of the constitution or laws of the state, or by or under the authority of any ordinance, regulation, mandate, or order of any public body or concerning the receipt or payment of any money received or paid by or under the authority of the constitution or the laws of the state are "public records". Present law establishes a framework for the ready availability of public records to requesting persons and specifically provides that it is the duty of the custodian of the public records of a public entity or agency to provide copies to persons so requesting. Provides for certain exceptions, exemptions, and limitations. Present law provides that a custodian shall make no inquiry of any person who applies for a public record, except an inquiry as to the age and identification of the person and may require the person to sign a register and shall not review, examine or scrutinize any copy, photograph, or memoranda in the possession of any such person.

Proposed law authorizes a custodian or his employees to require any person electronically requesting to inspect, copy, or reproduce any public record to provide sufficient information to establish the age and identification of the person unless the requestor is known to the custodian or his employees. Defines "sufficient information" as any electronic or physical document or identification card which includes a name and other identifying information, and if the person is a legal entity or acting as the agent of a legal entity, "sufficient information" also includes the legitimate name and physical address for the legal entity. Specifies that any document submitted to establish the age and identification of the person pursuant to proposed law shall not be a public record.

Proposed law specifies that if a person electronically requesting to inspect, copy, or reproduce any public record fails to provide sufficient information to establish the age and identification of the person, neither the custodian or his employees shall be required to

produce records in accordance with the provisions of present law (Public Records Law) and otherwise retains present law.

(Adds R.S. 44:31(C))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill:

1. Limit proposed requirement to persons electronically requesting public records.
2. Remove requirement for the information to include the address of the person, if not a legal entity.
3. Change requirement from sufficient information to establish the person's identity to sufficient information to establish the age and identification of the person.