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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Matt DeVille.

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DIGEST

SB 478 Engrossed

2022 Regular Session

Bernard

Present law defines which materials are considered public records.

Proposed law adds electronically stored information and information contained in databases to the list of materials considered public records.

Present law provides that the custodian of records cannot make an inquiry of any applicant of a public record except an inquiry as to the age and identification of the person.

Proposed law retains present law and authorizes the custodian of records to make an additional inquiry relative to the specificity of the request if, after review of the initial request, he is unable to ascertain what records are being requested. Further allows the custodian to deny access to a record after reasonable attempts to narrow or specify the request with the requestor if he reasonably determines the request would substantially disrupt government operations.

Present law provides that a custodian of public records may establish and collect reasonable fees for making copies of public records and request payment of fees in advance of production.

Proposed law retains present law and further provides that a custodian shall not be required to provide copies to persons who fail to pay applicable copying fees or fulfill subsequent records requests until any outstanding fee balance is resolved.

Present law provides that in any case in which a record is requested and a question is raised by the custodian of the record as to whether it is a public record, such custodian shall within three days, exclusive of Saturdays, Sundays, and legal public holidays, of the receipt of the request, in writing for such record, notify in writing the person making such request of his determination and the reasons therefor.

Proposed law grants the custodian five days to provide written notice to the requesting party.

Present law provides that the custodian of records shall be personally liable and liable in solido with the public body for the payment of damages due to a requester if a court of proper jurisdiction determines the custodian arbitrarily or capriciously withheld a requested record or unreasonably or arbitrarily failed to respond to a records request.

Proposed law retains present law.

Present law provides for penalties for violations of public records law by custodians of public records.

Proposed law requires the violation of public records law to be arbitrary or capricious in nature to qualify for penalties in present law.

Effective August 1, 2022.

(Amends R.S. 44:1(A)(2)(a), 32(A), (C)(1)(a), and (D), 35(E)(2), and 37)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Senate and Governmental Affairs to the original bill

1. Make technical corrections.
2. Add electronically stored information to the list of materials considered public records.
3. Clarify that a custodian of records may deny access to a record only after reasonable attempts to narrow or specify the request with the requestor if he determines that a records request would substantially disrupt required government operations.