

GREEN SHEET REDIGEST

HB 438

2021 Regular Session

Miguez

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

DIGEST

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.

Present law provides an individual in custody after sentencing following a felony conviction who has exhausted his appellate remedies may make a public records request pursuant to present law only for records limited to grounds upon which the individual could file for post-conviction relief under present law. Provides that a records custodian may make inquiry to determine if a request is from an individual in custody after sentence following a felony conviction who has exhausted his appellate remedies and is limited to grounds upon which the individual could file for post-conviction relief under present law.

Proposed law retains present law and specifies that proposed law shall not apply to any person actually confined in a correctional facility pursuant to an order of imprisonment or making a lawful request pursuant to the provisions of present law relating to convicted felons requesting records related to grounds upon which the individual could file for post-conviction relief under 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.

Summary of Amendments Adopted by Senate

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

1. Specify that proposed law shall not apply to any person actually confined in a correctional facility pursuant to an order of imprisonment or making a lawful request pursuant to the provisions of present law relating to convicted felons requesting records related to grounds upon which the individual could file for post-conviction relief under present law.