

## RÉSUMÉ DIGEST

HB 438

2021 Regular Session

Miguez

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 would have authorized 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. Would have defined "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" would have also included the legitimate name and physical address for the legal entity. Would have provided that any document submitted to establish the age and identification of the person pursuant to proposed law would not be a public record.

Proposed law would have provided that if a person electronically requesting to inspect, copy, or reproduce any public record failed to provide sufficient information to establish the age and identification of the person, neither the custodian or his employees would have been required to produce the requested records.

Present law provides that 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.

Proposed law would have retained present law and provided that proposed law would not have applied to any person confined in a correctional facility pursuant to an order of imprisonment or making a lawful request pursuant to present law relating to convicted felons requesting records related to post-conviction relief.

(Proposed to add R.S. 44:31(C))

**VETO MESSAGE:** This bill purports to be a common sense policy – to ensure that people who request public records are who they say they are. However, in practice, it will result in something entirely different. This bill, if enacted into law, would very likely be used, at best, to delay responses to public records requests or, at worst, intimidate members of the public into withdrawing their requests. There is simply no good reason for this bill.