SLS 22RS-522 ENGROSSED

2022 Regular Session

SENATE BILL NO. 228

BY SENATOR MORRIS

PUBLIC RECORDS. Provides for immunity from suit for invasion of privacy. (8/1/22)

1	AN ACT
2	To enact R.S. 44:42, relative to public records custodians; to provide for immunity from suit
3	in certain circumstances; and to provide for related matters.
4	Be it enacted by the Legislature of Louisiana:
5	Section 1. R.S. 44:42 is hereby enacted to read as follows:
6	§42. Immunity from suit for invasion of privacy
7	A. Any custodian who releases records in response to a public records
8	request made pursuant to this Chapter shall be immune from any lawsuit for
9	invasion of privacy alleged to be caused by the release of public records,
10	provided the custodian acts on advice of counsel.
11	B. This Section shall not apply if the release of the records is proven to
12	be arbitrary and capricious.
13	C. A custodian who claims the immunity provided by this Section shall
14	be entitled to a presumption that his conduct was not arbitrary and capricious
15	upon presenting a prima facie case of his reliance on advice of counsel.
16	D. For purposes of this Section "advice of counsel" means a
17	determination by the custodian's selected attorney, or if the custodian is an

attorney, upon the custodian's own diligent determination in his capacity as

2 <u>attorney.</u>

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

DIGEST

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Morris

<u>Present law</u> provides for a designated custodian of records for an agency to respond to public records requests.

Present constitution (Art. I, Sec. 5) provides generally for a right to privacy.

<u>Proposed law</u> retains <u>present law</u> and specifies that a custodian who releases records in response to a public records request shall be immune from any lawsuit for invasion of privacy alleged to be caused by the release of public records, provided the custodian acts on advice of counsel as long as the release was not arbitrary and capricious.

Effective August 1, 2022.

(Adds R.S. 44:42)