

RÉSUMÉ DIGEST

ACT 770 (SB 478)

2022 Regular Session

Bernard

Existing law defines which materials are considered public records.

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

Existing 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.

New law 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.

Existing 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. Further provides that it is the duty of the custodian to provide copies to a requestor. New law specifies that if the requestor fails to pay the applicable copying fees after being notified of the amount in advance or if the requestor has an outstanding balance due from a prior request, the custodian does not have the duty to provide the copies.

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, existing law requires the custodian to provide written notification to the person making such request of his determination and the reasons therefor.

Prior law required the notification to be given within three days, exclusive of Saturdays, Sundays, and legal public holidays, of the receipt of the request, in writing for such record.

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

Existing 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.

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

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

Effective August 1, 2022.

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