ACT 493 (HB 768)   **2024 Regular Session**   **Farnum**

<u>Existing law</u> provides that any person who has been denied the right to inspect, copy, reproduce, or obtain a copy or reproduction of a record pursuant to the Public Records Law may institute proceedings for the issuance of a writ of mandamus, injunctive or declaratory relief, together with attorney fees, costs and damages.

<u>Existing law</u> provides that a person who prevails in such suit seeking public records shall be awarded reasonable attorney fees and other costs of litigation.

<u>Existing law</u> provides that if the court finds that the custodian arbitrarily or capriciously withheld the requested record it may award the requestor any actual damages. If the court finds that the custodian unreasonably or arbitrarily failed to respond to the request, it may award the requestor any actual damages in addition to civil penalties not to exceed $100 per day for each day of failure to give notification.

<u>Prior law</u> provided that the custodian was personally liable for the payment of damages for arbitrary and capricious withholding of records or failure to respond to a request. Provided that the custodian was liable in solido with the public body for the payment of the requestor's attorney fees and other costs of litigation, except where the custodian withheld or denied production of the requested record or records on advice of legal counsel representing the public body. Provided that if the custodian retained private legal counsel for his defense or for bringing suit against the requestor in connection with the request for records, the court could award attorney fees to the custodian.

<u>New law</u> instead provides that no person shall be personally liable for penalties, damages, civil penalties, attorney fees, or other costs of litigation, assessed for failure to comply with the enforcement provisions and that the public body shall be responsible for the penalties.

Effective upon signature of governor (June 5, 2024).

(Amends R.S. 44:35(E))