

SENATE FILE NO. SF0057

Public records.

Sponsored by: Joint Corporations, Elections & Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to public records; requiring the release of
2 public records within a specified time; requiring the
3 designation of a public records person for each agency,
4 institution and political subdivision of the state; requiring
5 applications for public records to be made to the designated
6 public records person; requiring the state chief information
7 officer to investigate complaints and violations of the
8 public records act as specified; modifying penalties and
9 providing remedies for violations of the public records act;
10 and providing for an effective date.

11

12 *Be It Enacted by the Legislature of the State of Wyoming:*

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14 **Section 1.** W.S. 16-4-201(a)(ix), by creating a new
15 paragraph (xii) and by creating a new subsection (b),

1 16-4-202(a) through (c) and by creating a new subsection (e),
2 16-4-203(f) and 16-4-205 are amended to read:

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4 **16-4-201. Definitions; short title.**

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6 (a) As used in this act:

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8 (ix) "Application" means a written request for a
9 public record. However, a ~~custodian~~designated public records
10 person may in his discretion deem a verbal request to be an
11 application;

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13 (xii) "Designated public records person" means the
14 person designated as required by W.S. 16-4-202(e) or that
15 person's designee.

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17 (b) This act shall be known and may be cited as the
18 "Public Records Act."

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20 **16-4-202. Right of inspection; rules and regulations;**
21 **unavailability; designation of public records person.**

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1 (a) All public records shall be open for inspection by
2 any person at reasonable times, during business hours of the
3 state entity or political subdivision, except as provided in
4 this act or as otherwise provided by law, but the official
5 custodian of any public records may make rules and regulations
6 with reference to the inspection of the records as is
7 reasonably necessary for the protection of the records and
8 the prevention of unnecessary interference with the regular
9 discharge of the duties of the custodian or his office.

10 Applications for public records shall be made to the
11 designated public records person.

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13 (b) If the public records requested are not in the
14 custody or control of the ~~person~~ state agency, institution or
15 political subdivision to whom application is made, the
16 ~~custodian or authorized person having personal custody and~~
17 ~~control of the public records~~ designated public records
18 person shall notify the applicant within seven (7) business
19 days from the date of acknowledged receipt of the request of
20 the unavailability of the records sought and the name of the
21 appropriate designated public records person to contact about
22 the public records if known, unless good cause exists
23 preventing a response within such time period. In the event

1 the applicant is not satisfied that good cause exists, the
2 applicant may file a complaint with the state chief
3 information officer if the public records are in the custody
4 or control of a state agency or institution or may petition
5 the district court for a determination as to whether the
6 ~~eustodian~~designated public records person has demonstrated
7 good cause existed.

8
9 (c) If the public records requested are in the custody
10 and control of the ~~person~~state agency, institution or
11 political subdivision to whom application is made, ~~but the~~
12 designated public records person shall immediately forward
13 the request to the custodian or authorized person having
14 personal custody and control of the public records. If the
15 records are in active use or in storage, and therefore not
16 available at the time an applicant asks to examine them, the
17 ~~eustodian or authorized person having personal custody and~~
18 ~~control of the public records~~designated public records
19 person shall notify the applicant of this situation within
20 seven (7) business days from the date of acknowledged receipt
21 of the request, unless good cause exists preventing a response
22 within such time period. In the event the applicant is not
23 satisfied that good cause exists, the applicant may file a

1 complaint with the state chief information officer if the
2 public records are in the custody or control of a state agency
3 or institution or may petition the district court for a
4 determination as to whether the ~~custodian~~designated public
5 records person has demonstrated good cause existed. If a
6 public record is readily available:7

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8 (i) Except as provided in paragraph (ii) of this
9 subsection, it shall be released immediately to the
10 applicant;~~so long as the release does not~~

11
12 (ii) If the designated public records person
13 determines that immediate release of the record would impair
14 or impede the ~~agency's~~ability of the state agency,
15 institution or political subdivision to discharge its other
16 duties,~~the record shall be released to the applicant not~~
17 later than:

18
19 (A) A specified date for release mutually
20 agreed to by the applicant and the state agency, institution
21 or political subdivision; or

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1 (B) Ten (10) days from the date of
2 acknowledged receipt of the request if a different date for
3 release has not been mutually agreed to by the applicant and
4 the state agency, institution or political subdivision.

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6 (e) Each state agency, institution and political
7 subdivision shall designate a person to receive all public
8 records requests for the agency, institution or political
9 subdivision. The agency, institution or political subdivision
10 shall publish the name and contact information of the
11 designated public records person on its official website or
12 other appropriate platform if the agency, institution or
13 political subdivision does not have a website. The designated
14 public records person shall serve as a point of contact
15 between the agency, institution or political subdivision and
16 applicants seeking public records.

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18 **16-4-203. Right of inspection; grounds for denial;**
19 **access of news media; order permitting or restricting**
20 **disclosure; exceptions.**

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22 (f) Any person denied the right to inspect any record
23 covered by this act may file a complaint with the state chief

1 information officer if the public records are in the custody
2 or control of a state agency or institution or may apply to
3 the district court of the district wherein the record is found
4 for an order directing the custodian of the record to show
5 cause why he should not permit the inspection of the record.

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7 **16-4-205. Penalties; remedies.**

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9 (a) Any person who ~~knowingly or intentionally~~ violates
10 the provisions of this act is ~~liable for a penalty not to~~
11 ~~exceed seven hundred fifty dollars (\$750.00).~~ The penalty may
12 ~~be recovered in a civil action and damages shall be assessed~~
13 ~~by the court.~~ Any action guilty of an offense punishable as
14 specified in this subsection. Prosecution of an offense
15 pursuant to this ~~section-subsection~~ shall be initiated by the
16 attorney general or the appropriate ~~county-district~~ attorney.
17 The court may impose the following penalties:

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19 (i) For knowing or intentional violations, the
20 person is guilty of a felony punishable by a fine not to
21 exceed one thousand dollars (\$1,000.00) or by imprisonment
22 for a period of not more than one (1) year plus one (1) day,
23 or both;

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(ii) For negligent violations, the person is guilty of a misdemeanor punishable by a fine not to exceed seven hundred fifty dollars (\$750.00) or by imprisonment for a period of not more than six (6) months, or both.

(b) An applicant may file a complaint with the state chief information officer as provided in W.S. 16-4-202(b) and (c), 16-4-203(f) and in cases where the applicant has not received requested public records or notice from the state agency or institution within thirty (30) days of submitting the request. If the state chief information officer finds that the complaint has merit he shall refer the complaint to the attorney general for prosecution.

(c) An applicant who has not received requested public records or notice from the political subdivision within thirty (30) days of submitting the request may file a complaint with the appropriate district attorney. Upon receipt of a complaint the district attorney shall review the complaint and the records sought and consider whether an action under subsection (a) of this section is appropriate.

1 (d) Violation of any provision of this act may
2 constitute sufficient cause for termination of a public
3 employee's employment.

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5 **Section 2.** This act is effective July 1, 2019.

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(END)