
DIGEST

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Abramson

HB No. 616

Abstract: Provides a legal remedy in cases wherein a custodian fails to act on a written request for a public record.

Present law establishes the right of any person to examine a public record and authorizes individuals who appear in person to inspect, copy, or reproduce any public record and further authorizes written requests to obtain a copy or reproduction of any public record.

Present law provides an enforcement mechanism for any person who, after making an in-person request, has been denied the right to inspect or copy a record after the passage of five days. Present law also provides an enforcement mechanism for any person who, after making a written request, has been denied a copy or reproduction of a record based on the custodian's determination that the record being sought is not a public record but who has not received written notice thereof as required by present law. Such enforcement includes the right to institute a legal proceeding for the issuance of a writ of mandamus.

Present law as indicated in the case of *Foster v. Kemp*, 657 So.2d 681 (La. App. 1 Cir., 1995) provides no such enforcement mechanism for a person who makes a written request which is never acted upon by the custodian. Proposed law provides an enforcement mechanism in these cases.

Present law authorizes an award of attorney fees and other costs of litigation in cases in which the requestor of public records prevails at law. Proposed law retains present law but adds language used in other provisions of the Public Records Law, specifically in regard to an in-person right to inspect, copy, or reproduce any public record and a written request to obtain a copy or reproduction of any public record.

(Amends R.S. 44:35(A) and (D))