

# ACT No. 493

2024 Regular Session

HOUSE BILL NO. 768

BY REPRESENTATIVE FARNUM

1 AN ACT

2 To amend and reenact R.S. 44:35(E), relative to the Public Records Law; to provide relative  
3 to enforcement proceedings; to limit personal liability for failure to comply; and to  
4 provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 44:35(E) is hereby amended and reenacted to read as follows:

7 §35. Enforcement

8 \* \* \*

9 E.(1) If the court finds that the custodian arbitrarily or capriciously withheld  
10 the requested record or unreasonably or arbitrarily failed to respond to the request  
11 as required by R.S. 44:32, it may award the requestor any actual damages proven by  
12 him to have resulted from the actions of the custodian except as hereinafter provided.  
13 In addition, if the court finds that the custodian unreasonably or arbitrarily failed to  
14 respond to the request as required by R.S. 44:32 it may award the requestor civil  
15 penalties not to exceed one hundred dollars per day, exclusive of Saturdays,  
16 Sundays, and legal public holidays for each such day of such failure to give  
17 notification.

18 ~~(2) The custodian shall be personally liable for the payment of damages~~  
19 ~~pursuant to Paragraph (1) of this Subsection and shall be liable in solido with the~~  
20 ~~public body for the payment of the requestor's attorney fees and other costs of~~  
21 ~~litigation, except where the custodian has withheld or denied production of the~~  
22 ~~requested record or records on advice of the legal counsel representing the public~~  
23 ~~body in which the office of such custodian is located, and in the event the custodian~~

1 retains private legal counsel for his defense or for bringing suit against the requestor  
2 in connection with the request for records, the court may award attorney fees to the  
3 custodian. No person shall be personally liable for any penalty provided in this  
4 Chapter, including damages, civil penalties, attorney fees, and other costs of  
5 litigation assessed for failure to comply with this Section. In all instances in which  
6 a penalty is assessed, the public body shall be responsible for such penalties.

7 \* \* \*

8 Section 2. This Act shall become effective upon signature by the governor or, if not  
9 signed by the governor, upon expiration of the time for bills to become law without signature  
10 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
11 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
12 effective on the day following such approval.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_